FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2010

TUESDAY, JUNE 16, 2009

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 3:30 p.m., in room SD–138, Dirksen Senate Office Building, Hon. Richard J. Durbin (chairman) presiding.

Present: Senators Durbin, Nelson, and Collins.

Also present: Senator Bennett.

SMALL BUSINESS ADMINISTRATION

STATEMENT OF HON. KAREN G. MILLS, ADMINISTRATOR

OPENING STATEMENT OF SENATOR RICHARD J. DURBIN

Senator DURBIN. Good afternoon. I am pleased to convene this hearing to consider the fiscal year 2010 funding request of two agencies within the jurisdiction of the Appropriations Subcommittee on Financial Services and General Government—the Small Business Administration (SBA) and the General Services Administration (GSA).

My distinguished ranking member, Senator Collins, will be here shortly, along with others.

SBA and GSA are both playing key roles in the Federal Government's efforts to stimulate the economy. The Recovery Act provided SBA with $730 million to expand access to capital for small business. As the lifeblood of the American economy, small businesses must be the main driver of our Nation's economic recovery. The Recovery Act also provided $5.5 billion for GSA to initiate new Federal building projects.

These projects employ architects, engineers, electricians, plumbers, carpenters, and many others. They provide an indirect benefit to local economies by spurring increased economic opportunity. Capital construction projects led by GSA are important investments, not only for the Government, but also for the communities in which the projects take place, including many small businesses.

Small businesses are at the heart of many sectors of the economy, including information technology, retail, and green jobs. In fact, in fiscal year 2008 alone, small businesses were awarded over $1 billion in GSA contracts. In addition to Recovery Act initiatives and implementation, we are also going to discuss the fiscal year 2010 funding requests for SBA and GSA.

Joining us for our first panel is Karen Mills, the new Administrator of the Small Business Administration. I welcome you to the subcommittee.

Ms. MILLS. Thank you, Senator.

Senator DURBIN. The budget request for fiscal year 2010 for SBA is $779 million, which will provide funding for a wide array of programs supporting small business lending and entrepreneurial development. SBA has been on the front lines of the economic crisis, working to help small business owners as they face difficulty gaining access to capital. SBA oversees a loan portfolio of $85 billion and in a typical year makes or guarantees loans to $20 billion for small businesses.

We will discuss the good news regarding the performance of new programs, as well as an array of entrepreneurial development programs that can help small businesses stay on their feet and even grow in this tough environment.

Administrator Mills, I look forward to hearing your testimony on your fiscal year 2010 budget request and on SBA's progress on implementing new Recovery Act programs, and I give you the floor.

SUMMARY STATEMENT OF HON. KAREN G. MILLS

Ms. MILLS. Well, thank you very much, Senator Durbin.

Chairman Durbin and Ranking Member Collins, who I know is going to be here, and members of the subcommittee, it is an honor to testify here before you. And I am very pleased to be here to support the President's 2010 budget for the Small Business Administration.

First, though, I would like to briefly update you on the progress that we have made with the Recovery Act.

With the launch yesterday of the ARC loans, that is America's recovery capital, the SBA has implemented more than $645 million of the $730 million in our Recovery Act funding. So, on March 19, we announced that we were going to raise the guarantees—that we'd raise the guarantees on most of the 7(a) loans—and that we also would reduce or eliminate the fees on 7(a) and 504 loans.

The results actually are quite encouraging. The problem we are trying to address is that we had an environment of very, very tight credit for small business, and small businesses were suffering because they couldn't get any liquidity and any credit. And we were able to, with these two programs, increase our loan volume by more than 30 percent compared to the weeks before the Recovery Act.

And just as importantly, we have been able to bring back over 500 banks who had not been lending, some of them since 2007, and who are now lending through the SBA programs. So, at this pace, the funding for the 90 percent guarantee and the fee reductions will last through December 2009.

As I said, on Monday, we began the ARC loans, and actually, 30 were approved yesterday. We actually expect there to be 10,000, but we are off to quite a lot of demand. These are loans that are going to provide relief for some viable small businesses that are struggling.

They are 100 percent guaranteed by the SBA. They are $35,000, or up to $35,000. They have no interest for borrowers. And they have over 12 months before any repayment begins, and then the repayment is over 5 years.

Overall, the SBA is here to ensure that small businesses will continue to drive the American recovery and also to be able to build a strong foundation for America's competitiveness and for the creation of what we call 21st century well-paying jobs.

The 2010 SBA budget request is $779 million, and it is in support of these objectives. There are four basic functions of the SBA, and they are included, each one, in this budget.

First is our disaster assistance programs, and they are to ensure that communities will recover from a disaster and begin to again contribute to the economy. We actually have more than 1,200 trained standby employees, and they go from the ice storms in Maine to the wildfires in California, and then they go to the tornadoes in the Midwest and the floods. And now they are ready to go down to the gulf coast or the eastern seaboard for hurricane season.

And they help communities. They are deployed to communities who are affected by disaster, and they process and give out both homeowner and business loans. And I am pleased to say that they are ready to go for this season and that our processing times in this disaster center, which we have worked very hard to bring quite lower, are on target, and that is 14 to 18 days.

Our 2010 request in this area is $101 million for administration of the direct loan program.

The second area is our Capital Access Division, and that oversees our business loans. And I heard Senator Durbin mention—I was going to say more than $80 billion—you actually said $85 billion. Thank you. That actually is right where we are.

We are requesting the same authorization levels that were enacted in 2009 to support more than $28 billion in small business financing. This is through our 7(a), 504, our SBIC investments, and our microloan programs. The total subsidy request for this is $83 million in fiscal year 2010.

Our third division is our Government Contracting Division, and that helps small businesses that have the opportunity—helps them have the opportunity to participate in Government contracting and subcontracting. This budget requests an additional $2 million. We are going to revise the certification process for our HUBZone and 8(a) business development programs, and we are going to make sure that only eligible businesses participate, and we are going to be able to determine when our site visits and our oversight is necessary.

Our fourth division is our Entrepreneurial Development Division, and that is really the backbone of the agency. We have over 900 small business development centers, SBDCs. We have more than 100 women-owned business centers. And we have more than 350 chapters of SCORE, which is our retired executive program.

Overall, we have 14,000 affiliated counselors. And one of the partner organizations said to me the other day that he thinks that we are within 45 minutes to an hour of most small businesses with counseling assistance.

The performance of these operations is quite strong. We have seen 34,000 clients since October, and that is a 5 percent increase, as you can imagine in these times, compared to last fiscal year.

So, as you can see, we are a small agency with a big mission, especially in today's economic climate. Already, Federal agencies throughout the administration are turning to the SBA. They are looking for ways to tap into our network of staff and our partners who are already on the ground and working with small business owners.

One recent visible example of our work has been with the auto task force and where we have helped devise dealer floor plans, the financing for dealer floor plans. This budget is going to allow us the flexibility to build more of these partnerships in response to these challenging times. Specifically, $20 million in the 2010 budget allows us to create three important collaborations.

The first initiative is on veterans. We are going to provide an additional $5 million to focus throughout our agency on serving veterans. We have 12,000 troops returning this summer. We have tens of thousands over the next coming year, and we have to be ready to serve these veterans who are or who want to become small business owners.

So already we have eight specialized veterans centers, but we actually need to be serving veterans in all of our other partners. There are 2 million women veterans. We need to be ready to serve them in our women-owned business centers. We are already in conversations with the Secretary at Veterans Affairs on how to coordinate our efforts, and this is part of an overall objective at the SBA and across the administration to collaborate, to break down sacred turf in order to make Federal dollars work more efficiently for those who need our help.

The second initiative is $10 million, which is requested to form a ready reserve, or SWAT team. This is an interagency collaboration with SBA. At the request of a community, these teams will go into areas that have been disproportionately impacted by the economy and help them plan for jobs and growth. The focus is going to be on the manufacturing sector, on the automotive industry, on communities that are reinventing their economy from the ground up.

I went to Kokomo, Indiana, which is one of the highest concentrations of Chrysler employment, 2 weeks ago, and the mayor, Greg Goodnight, asked me for just this kind of help. Could we send this kind of team in?

The ready reserve teams are going to work closely with this network, this bone structure of SBA partners to help leverage the local assets, create jobs, grow small businesses.

The third initiative in this budget is $5 million to support small businesses through regional economic clusters. An example that I like to talk about is the Maine boat builders, and the Maine boat builders have formed a cluster with the University of Maine, working on new composite technology. This is a 400-year-old industry now competing across the globe.

Maine's small boat builders are one example, and I know that Senator Collins has actually been working with this group for a long time, even longer, much longer than I have.

So clusters like this are forming in every State. They are going to be fueled by efforts in the Department of Commerce. The Department of Commerce has $50 million in their budget for these cluster activities. The SBA resources on the ground will coordinate with Commerce's manufacturing and export centers, with Labor's trade assistance programs, and a number of other programs to assist the clusters' needs.

In the coming year, my personal commitment with all our efforts at the SBA is that we will measure our progress on an agency-wide basis and transparently report our activities to Congress and to taxpayers.

PREPARED STATEMENT

Already, we are tracking our progress in a systematic and integrated way. We have a dashboard of data on a weekly basis and on a monthly basis. And we are going to continue to use these metrics in our objectives of implementing the Recovery Act, reinvigorating the agency, and serving as the strongest possible voice for small business.

Thank you very much. I would be happy to——

Senator DURBIN. Thank you, Administrator Mills.

[The statement follows:]

PREPARED STATEMENT OF KAREN MILLS

Chairman Durbin, Ranking Member Collins and Members of the Committee, it is an honor to testify before you. I am pleased to be here to support the President's 2010 Budget for the SBA, but first I would like to briefly update you on the SBA's progress with the Recovery Act.

With the launch of the America's Recovery Capital (ARC) loan program yesterday, the SBA has implemented more than $645 million of the $730 million in total SBA Recovery Act funding. On March 19, we announced that we would raise guarantees on most 7(a) loans to 90 percent and reduce or eliminate fees on both of our flagship loan programs. The results are encouraging. In this environment of tight credit, we were able to increase our loan volume by more than 30 percent compared to the weeks before the Act was passed. Just as importantly, we have brought nearly 500 banks and credit unions back to the program who had not participated since 2007.

By and large, the stimulus money is out in the marketplace—in the hands of entrepreneurs and small business owners—and it is working. At this pace, funding for the 90 percent guarantee and the fee reductions will last through December of this year.

Yesterday, we opened up applications in our ARC loans program. These will provide the relief that many viable but struggling small businesses need. The ARC loans are up to $35,000 with no interest for borrowers and no repayments for 12 months. We expect these loans to be in high demand. We have taken steps to ensure that smaller lenders and community banks have access to these loans before the supply runs out. Specifically, we have limited the number of loans a lender can give to 50 a week, with a total from any lending institution of no more than 1,000. And if a bank doesn't use all of the loans one week, they can roll them over to the next week.

The SBA is here to ensure that small business will continue to drive America's economic recovery and build a stronger foundation of American competitiveness while creating well-paying jobs in the 21st century.

The 2010 SBA Budget request of $779 million is key to moving forward with that overarching goal in mind. There are four basic functions of the Agency that are supported by this budget.

First, our disaster assistance programs ensure that businesses and communities can recover quickly from disaster and once again contribute to the local economy. We have a direct loan volume of more than $1 billion for this area and the processing times for our disaster loans are on target. We also have more than 1,200 trained standby employees who can be deployed to communities affected by disaster, and we continue to find ways to improve operations and planning in this area.

The total fiscal year 2010 request in this SBA function is $101 million for administration of the direct disaster loan program. Disaster loan subsidy funding is available through unobligated balances.

The budget request also includes $1.3 million in administration expenses for the disaster assistance programs and $1.7 million in credit subsidy funding to conduct two pilots of guaranteed disaster loan programs authorized in the 2008 Farm Bill.

Second, our capital access division oversees our business loan programs which now support a portfolio of more than $80 billion in loan guarantees. We have requested the same authorization levels as enacted in fiscal year 2009 to support more than $28 billion in small business financing through our 7(a), 504, Small Business Investment Company and Microloan programs.[1]

The total subsidy request for this is $83 million for 2010, of which $80 million supports $17.5 billion in 7(a) volume and $3 million supports $25 million in Microloan volume.

Also, we continue our multi-year investment in the SBA's Loan Management Accounting System, an effort to replace our outdated computer system. The budget requests $5 million in additional funds for this effort.

Finally, $3 million is requested for Capital Access to conduct a study on the next generation of equity capital programs to help stimulate innovation and job creation.

Third, the SBA's Government Contracting Division helps small businesses receive opportunities to participate in Government contracting and subcontracting, with a goal of delivering 23 percent of all Federal prime contracts to small firms. These contracts serve as stepping stones for small business growth while allowing Federal agencies access to quality products and services with high levels of innovation, service, and responsiveness.

This budget requests an additional $2 million to revise the certification process for the HUBZone and 8(a) Business Development programs, so that only eligible businesses participate in these programs. The money will also improve training programs which target both small businesses and procuring agencies to ensure that small businesses have the opportunity to compete.

Fourth, our entrepreneurial development division is the backbone of the agency, harnessing the entrepreneurial spirit of entrepreneurs and small business owners across the country. We manage this effort through nearly 900 Small Business Development Centers and more than 100 Women's Business Centers, 350 chapters of SCORE, our mentoring program that matches experienced executives with small businesses, and other programs which comprise about 14,000 affiliated counselors in total. Entrepreneurial Development also includes major initiatives to reach small business owned by veterans, Native Americans, minorities and other populations, such as those in rural areas. Our role is to be there for those who need help accessing capital and advice to pursue small business opportunities.

I should note that the performance of our counseling operations is strong, with our Small Business Development Centers serving nearly 34,000 clients since October, a 5 percent increase compared to last fiscal year.

The major focus of this division in fiscal year 2010 will be not only to maximize the impact of the linkages the SBA has with our extensive network of partners, but also to improve the coordination between our partners. In addition, we will take advantage of the collaborative opportunities we are seeing with Federal agencies as well as state, local and private sector players who can help us serve entrepreneurs and small businesses.

The SBA is also engaged in new collaborations with the Departments of Veterans Affairs, Commerce, and others that I will describe further shortly.

As a foundation to support each of these four areas, the SBA is renewing its focus on investing in its people, technology, and other core agency investments that are critical to the agency's future.

With technology, the Recovery Act provides $20 million to move forward with efforts such as automating old paper-based systems, boosting data transfer speeds and a new web portal and a customer relationship management system.

The fiscal year 2010 budget request includes $3 million for additional IT improvements related to technical training, off-site data storage, a better SBA Internet presence, and more email storage capabilities for employees.

Our people, of course, are our strongest asset.

This budget request includes $13.6 million in additional funds for salaries and benefits, $10 million of which will go to hire about 80 additional employees, bringing total salary expenditures to $268 million with 2,203 employees. These new hires will be largely focused on loan purchases and processing.

[1] $17.5 billion, $7.5 billion, $3 billion and $25 million, respectively. In addition, $12 billion in authority is requested for the Secondary Market Guaranty program.

This budget also requests an additional $2 million to help the agency address much needed efforts in this training, mentoring and our succession planning efforts. Our hope is that these investments in SBA staff will allow us to build on our recent Most Improved Agency award related to job satisfaction in the Federal Government. We rose from 30th to 26th, but there is still much room for improvement.

As you can see, we are a small agency with a big mission, especially in today's economic climate.

Already, Federal agencies throughout the Administration are turning to the SBA, looking for ways to tap into our vast network of staff and partners who are already "on the ground" interacting with small business owners across the country.

The most visible recent example of this has been our work with the Auto Task Force. We are moving rapidly to implement a new program to finance dealer floor plans. We have also been engaged more recently in the health care discussion to ensure that the needs of small business employees will be met in the future.

This budget allows us the flexibility to build more of these partnerships to adapt to the needs of these challenging times. Specifically, $20 million is allocated in the 2010 budget to allow the SBA to create truly powerful collaborations through three major initiatives.

The first initiative provides an additional $5 million to focus on veterans business issues. We have 12,000 troops coming home from Iraq this summer and tens of thousands more in the coming year. We must be ready to serve these veterans who are, or who want to become, small business owners.

Already, we have 8 specialized veterans resource centers, but we need to be serving veterans throughout our 900 Small Business Development Centers, our 350 SCORE chapters and our other partners. Also, there are nearly 2 million women veterans, and we need to ensure that our Women's Business Centers are well-equipped to serve all of them.

The $5 million requested in the 2010 budget will leverage our existing networks to serve veterans. We are already in conversations with the Secretary at Veterans Affairs on how to coordinate our efforts. This is the part of an overall objective at the SBA and across the Administration to collaborate and break down "sacred turf" in order to make our dollars work more efficiently for those who need our help.

Secondly, a $10 million initiative is requested to create a program of ready reserve teams or SWAT teams. This will be an interagency collaboration with SBA experts and experts at other Federal agencies. At the request of the community, this team will go into areas that have been disproportionately impacted by the economy and help them plan for growth.

This will include regions that have been hit in the manufacturing sector, the automotive industry, and other communities that are reinventing their local economy from the ground up.

I recently went to Kokomo, Indiana, a town with 25 percent unemployment. The mayor, Greg Goodnight, asked me for exactly this kind of help as they work to grow new companies in electronics and engineering.

The ready reserve teams will work closely with our existing partners to leverage the local assets in communities like Kokomo and uncover possible new opportunities. They will find ways to grow a broader knowledge base, to learn new skill sets, and to create 21st century jobs.

Third, the Budget contains a $5 million initiative is to support small businesses who participate in Regional Economic Clusters.

An example is the Maine boatbuilders who are working with new composite technology to create lighter, faster boats that are competitive in global markets. Senator Collins has been working with this group for some time. Maine's small boatbuilders have clustered together to be a new driver of the State's economy.

Clusters are forming in every State and will be fueled by efforts in the departments of Commerce and Energy. The SBA's resources on the ground will coordinate with Commerce's manufacturing and export centers, Labor's trade assistance programs, and others to serve each cluster's particular needs.

This budget will allow us $5 million for this effort to identify, grow and expand the partnerships that will allow us to maximize the national economic impact of regional clusters.

In sum, this $20 million budget request will allow the SBA to be a strong voice for small business across the Administration while reaching out to underserved populations such as veterans . . . emphasizing innovation in areas hard-hit by the recession . . . and building on the strengths that already exist in small business communities.

As you can see, we are a small agency with a big mission, especially in today's economic climate.

In the coming fiscal year, my personal commitment with all of our efforts—both new and existing—is that the SBA will measure our progress on an agency wide-basis and transparently report our activities to taxpayers. Already, we are tracking our overall progress in a systematic and integrated way, reviewing a dashboard of data on a weekly and monthly basis. We will use these metrics to continue implementing the Recovery Act, reinvigorating our agency and serving as the strongest possible voice for small business.

Provided with the resources, the SBA can continue to be a true catalyst for the growth and innovation—helping entrepreneurs and small business owners lead us out of this recession, stimulate the economy, strengthen U.S. competitiveness, and create new, well-paying 21st century jobs.

Thank you and now I'm pleased to take your questions.

SMALL BUSINESS DEVELOPMENT CENTERS

Senator DURBIN. I welcome my colleague Senator Collins.

I would like to ask a question or two. First, you have requested some $20 million for new entrepreneurial development initiatives, and your testimony says this money will be used in part for increased focus on veterans, SBA SWAT teams, and small business clusters. I like the idea of innovative thought and new approaches. However, there is something that I find I can't resolve.

Also in this budget is a proposed $13 million decrease in the small business development centers. They have an established network of connections across the country, and they are already on the street, ready to address the challenges that you have identified. I could give you the list of accomplishments of these SBDC associations, but I think you would know them.

So here is what I am trying to struggle with. Why would you cut back on an established network that has proven that it can help businesses and then start a new function to go after three specific business needs? It would seem to me that we wouldn't want to sacrifice the SBDCs to create a new experimental program, and also will there be SWAT uniforms for the SBA employees?

Ms. MILLS. Well, yes, on the SWAT uniforms, of course.

Well, you are absolutely right to point out this anomaly in the data. And let me be very clear, it is not our intention to cut the SBDC programs. So here is how the anomaly appeared.

When we proposed our 2010 budget, proposed $97 million for SBDCs, that was level funding for this absolutely critical program. So 2009 was $97 million. We proposed in our 2010 budget the same amount.

This is a critical program, and it is what we call the bone structure, the foundation stone, as you have pointed out, of how we are executing, how we are on the ground. The numbers, the metrics on this are very, very good. Not only are they up 5 percent, but we have—or we document how—when they serve clients on a long-term basis, the performance of these clients increases versus the control group who are not served. So these are really critical elements of our plan.

The reason that you see $110 million in 2009 is that Congress passed the actual 2009 after we had submitted the 2010, and there was an increase for the SBDCs, which we are very grateful for.

Senator DURBIN. So you are saying that the $97 million is flat funding from the previous fiscal year?

Ms. MILLS. Yes, and our intention was never to cut this program. We rely on this program. It is a backbone program. So there was no replacement contemplated.

Senator DURBIN. It would seem that flat funding would not anticipate just ordinary increase in cost of living and the like?

Ms. MILLS. Well, as I said, we are very, very happy to talk about supporting this program because this program is a foundation stone of everything that we want to do.

EMPLOYEE TRAINING

Senator DURBIN. Let me ask you about one of the—since you are brand new to the agency, I will just ask you what your thought is about this particular issue.

OPM did a survey in 2008 of the best places to work in the Federal Government. The Small Business Administration in 2008 ranked 26th out of 30 agencies. That is low, but an improvement over the previous year, where it ranked 30th out of 30 agencies, dead last.

So when it comes to this issue of morale and the like, I would like to know what your thoughts are on how you are going to change that particular—or at least address that particular challenge. One of the things that has been suggested is more money into employee training so that there is a notion that if they do train and improve their skills, that there is a chance for advancement within the organization.

However, the report states the agency has not yet documented a comprehensive plan for training that links core competency to your goals. So can you tell us if you are aware of this problem, what you are doing to address it, whether it involves any training component or things like student loan forgiveness?

Ms. MILLS. Senator, I am very happy to talk about this. When we talk about the priorities, when I talk about my priorities for the agency, one of the most important ones is reinvigorating the agency, and there are two components of this—investing in our people and investing in information technology. And what you have just described is at the core of our plan to invest in our people.

It is unacceptable to be 30th out of 30. We won an award last month for most improved agency, and we are only at 26. This is not good enough.

So we have embarked on a revision of our training program, and this is a priority for me as the Administrator and for our whole team because we have terrific people. And we ask them, as I said, to do a lot of jobs, to carry a big load. And we need to prepare them and invest in them in order for them to be great managers, in order for them to be great counselors. And we actually have some excellent programs in the planning process that we plan to begin to implement in the next month.

So we are also looking at student loan forgiveness, and I am pleased to tell you that we are going to do that as well, and that is going to be implemented within the next 30 days.

Senator DURBIN. Do you have the legal authority to do that?

Ms. MILLS. Yes, I believe we do.

Senator DURBIN. Good.

Senator Collins.

Senator COLLINS. Thank you. Thank you, Mr. Chairman.

I would ask unanimous consent that my opening statement be entered into the record.

Senator DURBIN. Without objection.

[The statement follows:]

PREPARED STATEMENT OF SENATOR SUSAN COLLINS

Thank you, Mr. Chairman.

Administrator Mills, welcome and thank you for being here today. Before I discuss your new role as head of the Small Business Administration, I want to thank you for your service to our State of Maine. Your efforts to promote economic development and investment in small businesses in our State have helped retain and create jobs, and have helped small manufacturers increase efficiency and competitiveness.

I am sure that you will bring the same leadership and vision to the SBA as you brought to our home State.

As we all know, small businesses are the backbone of our economy. Our economic strength and future are tied to the strength of small businesses.

During the last decade, America's small businesses have created about 70 percent of all new jobs. Small businesses employ about half of U.S. workers and create more than half of nonfarm private GDP.

In Maine alone, we have 154,000 small businesses. About 112,000 are self-employed individuals, and another 42,000 of these small businesses have employees. These Maine entrepreneurs created nearly 5,000 new jobs in 2007 alone.

Administrator Mills, I look forward to working with you to give small businesses the support and assistance they need to emerge from this recession strong and nimble. I am eager to hear about the progress you are making in implementing the SBA's portion of the Recovery Act, which contained many provisions aimed at helping small businesses recover, grow and expand. I also look forward to hearing your fiscal year 2010 proposals and how they will continue SBA's core services of entrepreneurial assistance and access to capital for small businesses.

Mr. Prouty, the Recovery Act provided $5.5 billion to GSA for construction of new facilities, and for renovation and modernization of old ones to create more energy efficient Federal buildings. There are plans to spend these funds in all 50 States and 2 U.S. territories—creating jobs, constructing buildings the Nation needs, and reducing the energy consumption of the Federal Government. The Recovery Act also included $300 million for the purchase of energy efficient motor vehicles for the Federal fleet. These funds were intended to help stimulate the economy and maximize economic benefit for the ailing auto industry. I look forward to hearing from you about the progress GSA is making in executing this enormous investment.

The President's fiscal year 2010 budget provides funds for construction projects in many States, including my own. However, I am concerned that the President's request does not follow the Judicial Conference's Five-Year Courthouse Construction Plan. In fact, the fiscal year 2010 request does not fund a single courthouse on the Judicial Conference plan. Mr. Chairman, I am pleased that we have invited Judge Bataillon to testify about the selection process for courthouse construction. As Chair of the Space and Facilities Committee for the Judicial Conference, Judge Bataillon will be able to discuss how the fiscal year 2010 Budget request will affect the design, construction, and completion of our Nation's courthouses.

Mr. Chairman, before I conclude, I would like to submit for the Record a letter that Mr. James Duff, Secretary of the Judicial Conference, sent to you and me on June 9, 2009. (Pause for Senator Durbin to accept the letter into the Record.)

This letter expresses the Judicial Conference's concerns about the President's budget request. It states, in part, that "if these projects are not funded in fiscal year 2010, we are concerned that all projects in 2010 and subsequent years will be delayed at least another year-seriously impacting the judicial process where courthouses are already out of space, and critical security deficiencies currently exist."

Mr. Chairman, thank you for calling this hearing. I look forward to working with you as we consider the fiscal year 2010 budget requests of SBA and GSA, as well as the other agencies within our subcommittee's jurisdiction.

Senator COLLINS. Thank you.

I want to apologize to you, Mr. Chairman, and to our witness for my late arrival. Since the witness is from the State of Maine, she can appreciate that I was at the Seapower Subcommittee of Armed Services, which is also a very high priority for our State.

SMALL BUSINESS DEVELOPMENT CENTERS

Administrator Mills, let me first associate myself with the remarks made by the chairman about the small business development centers. As a former regional administrator of the SBA, I know personally how valuable those centers can be in providing advice and guidance, which can be at least as important—well, maybe not as important, but almost as important as money to a new business or a business that is thinking of expanding. So I, too, hope we are not seeing a cutback in those valuable centers.

AMERICAN REINVESTMENT AND RECOVERY ACT

I would like to ask you for an update on the implementation of the Recovery Act. This subcommittee gave the SBA some $730 million to help get small business lending going again through a variety of means, including increasing the amount of a loan that the SBA could guarantee, cutting fees, a variety of programs.

What is the status of the SBA's efforts to implement the Recovery Act?

Ms. MILLS. Thank you, Senator Collins.

The status of the Recovery Act is that as of yesterday, with the implementation of the ARC loans, we have implemented $345 million of the $730 million of Recovery Act money now available for funding. The first stage went out on March 19, which was the increase of guarantees to 90 percent and the reduction of fees. And the reaction—we really have to thank you for putting this money forward because the reaction was immediate.

When small businesses had been having difficulty getting credit, we were able to see our loan volume go up by 30 percent. And actually, I am told as of yesterday, it is now 35 percent over the weeks before the Recovery Act.

In addition, we were able to attract 500 new banks into the program who had not made a loan since—some of them since 2007. So the formula in that Recovery Act is exactly right, and we are seeing the loan volumes increase and increase. We are not back yet to pre-October, pre-2008 levels. But money is in the hands of small businesses, and the Recovery Act is working to keep those jobs.

Senator COLLINS. That is great to hear.

Ms. MILLS. It is good.

SMALL BUSINESS ACCESS TO CREDIT

Senator COLLINS. I will tell you, and I know you hear it back in Maine as well, that there is still a lot of small businesses that are having their lines of credit terminated, that are having loans called, and this infuriates me because a lot of times the financial institutions that are cutting off lending to small businesses are those that have received billions of dollars in TARP money.

So it is just infuriating to me that they are cutting off credit to small businesses that, in many cases or in most cases, are paying on time. They have not violated the terms of their loan agreements, but it is just a matter of the bank trying to build up its capital or reduce its exposure.

When I was the regional administrator in New England in 1992 or 1993—I can't remember which year—banks were failing throughout New England, and we initiated a New England lending and recovery project, which I have discussed briefly with you. And what this project did is go into failed banks and take out the creditworthy loans and place them with a new lender with an SBA guarantee. And the result was that we were able to intervene in cases where, through no fault of its own, a small business was losing its credit.

Is SBA looking at some sort of proactive program like that, where you would go in and offer to put a guarantee on a loan in order to keep it from being called or the credit line terminated?

Ms. MILLS. Well, yes. We absolutely have, and in fact, you had mentioned this a while ago. There are two programs that are really going to be helpful to this quite distressful problem of credit lines being cut to small businesses.

The first is actually the ARC loans. What is happening to many of these small businesses is that the credit lines that are being cut are actually credit card, business credit card lines. And the availability on those lines has been cut, and therefore, they have no liquidity to run their business.

The ARC loans, which went out yesterday and became available, are $35,000 lines of loans to businesses to pay down any loan they want, including credit card loans. And that would give them an additional $35,000 line of credit.

These are 100 percent guaranteed by the SBA. They have no interest to the borrower. The SBA pays the interest. And they have no repayment due for at least 18 months—6 months to give the loan, then 12 months after. So this will be very good for smaller borrowers who particularly have this issue of their lines of credit cut on credit card loans.

The second—and it will give them a much cheaper option—the second thing that we are implementing and have implemented is that you can refinance a bank loan into an SBA guaranteed 7(a) loan today. And in the next couple of weeks, you are going to be able to implement, to refinance into a 504 loan.

So if you meet the criteria for a 504 expansion loan, you, in the past, could not refinance existing debt into that guaranteed loan. But because of the provisions of the Recovery Act, we are going to be able to implement new rules. And so, those will be available for exactly the kind of great businesses that, for various reasons, the bank is not able to be the provider of enough liquidity and putting it with an SBA bank with a guarantee.

Senator COLLINS. Thank you, Mr. Chairman.

DEALER FLOOR PLAN FINANCING PROGRAM

Senator DURBIN. I understand, Administrator Mills, that on July 1, SBA will begin guaranteeing loans to dealerships to finance inventories of cars, trucks, RVs, boats, and even manufactured homes, that this is because of recent changes to old regulations that used to prohibit this kind of lending.

This is kind of a bold step for the SBA, and it clearly will be needed by some. But it is a stressed marketplace, and I am just wondering as the SBA considers these loans, what steps are you taking to mitigate the risks that are part of this new loan program?

Ms. MILLS. We worked very hard to do a number of things in response to the crisis in the automotive industry. The first was to provide some kinds of financing that the distressed dealers were looking for, and this goes to not just dealers at Chrysler and GM, but, of course, to all dealers, including used car dealers. And it goes to boat builders—boat dealers, RV dealers, as you said, and also motorcycle dealers, in fact.

And the steps that we have taken, what we needed to do was make sure we were taking no more risk with these loans than with our normal 7(a) portfolio. So we actually constructed credit criteria, including our guarantee on this, for instance, is 75 percent, not 90 percent. And the advance rates are of a certain level.

So we have been quite careful to balance the need to step up and provide liquidity to the sector and also to not take on additional—to manage our risk at the appropriate level.

SMALL BUSINESS CONTRACTING

Senator DURBIN. I would like to ask you about one issue that you are going to face and we have all faced in the Federal Government. Federal agencies reported a total of $78 billion in Federal prime contract dollars went to small businesses in 2006. Many of these were obtained using contracting preferences, such as sole-source awards and set-asides for small businesses.

The SBA's inspector general and others have reported flaws in this procurement system related to the contracts. There is evidence that large firms are awarded contracts reserved for small businesses. In addition, Federal agencies have inappropriately been counting contracts performed by large firms toward their small business procurement goals.

SBA introduced a scorecard to rate small business procurement practices at Federal agencies, including the accuracy of reporting, and issued regulations to require small businesses to regularly recertify. How is the SBA working with Federal agencies to ensure contracting personnel are properly trained to understand what is a small business, what is a masquerading large business, and how we meet our goals to actually do business with smaller entities?

Ms. MILLS. Well, Senator, our Government contracting program is designed to have the SBA help ensure that 23 percent of all Federal contracts throughout all of the agencies go to small businesses. And the purpose of this is—it should be—we believe it should be a win-win situation. These are very good for small businesses, particularly some of the high-growth, innovative businesses because it allows them to get to the next level of volume, and then after that, they can export and they graduate and they become job creators and sort of the mainstays of the growth in our economy.

From the Federal agency point of view, it is a win-win also because they get access to some of the most innovative companies and technologies. And when you contract with a small business, very often you get top management and you get the CEO at the table working on these issues.

However, as you point out, it is difficult sometimes for Federal agencies to know how to access great small businesses, and they worry: Will the small business that I am contracting with be there? Is it financially stable?

So one of the things that we are focusing on, in answer to your question, is increased training and activities that improve the reach and access and availability of small businesses to speak to these procurement agents and connect to these procurement agents.

The second issue you raise, though, is that we have had a series of issues relating to whether this is really reserved for small business. This program is for small businesses. It is not for big businesses masquerading as small businesses. There have been a series of findings on this, and we are engaged in addressing every single one that has come out of the report.

And in the budget you will find funding for our HUBZone program and our 8(a) certification programs so that we can re-look at a number of ways we do business, certifying that sometimes it is good for big business to be affiliated and mentor a small business, but it is not good if the small business is not actually the one engaged in the contract and in fulfilling the contract.

So we are working very hard on these issues that you have described and consider them one of our important priorities because we think, actually, this can be a win-win for small businesses and for the Federal Government.

Senator DURBIN. Thank you.

Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

LENDER OVERSIGHT

I want to follow up on the questions that the chairman has just raised about the ability of your agency to guard against fraud. You have had an enormous budget increase as a result of the stimulus bill, and yet I am told that SBA's nondisaster staffing has decreased by about 28 percent since 2001. Your loan portfolio went up by 59 percent during that period. Information that you have given us today shows that it has gone up even further.

How is the SBA going to ensure, when you have over 5,000 lenders and 270 certified development companies that are making loans, how are you going to ensure the integrity of that process when your nondisaster staff is shrinking?

Ms. MILLS. Well, thank you, Senator Collins, for asking that.

In fact, this agency went from 3,000 people 8 years ago to 2,000 people now. The budget has gone down by 24 percent. But to answer your question, I said there are two areas that we were going to invest heavily in in reinvigorating the agency. And the first is our people. The second is information technology.

A large part of the information technology investment that we are making, and we got some money in the stimulus act—in the Recovery Act to look at this—is for lender oversight and risk assessment. We have formed a new committee on risk assessment, and we are beginning the process of understanding how we can use technology as well as people to identify risk, to collect better data on risk, and to be more proactive about our understanding of how we go after risk-based solutions.

And I think we do—at this moment, we have some very good components, but we are raising the level of this activity to really my level, to the administrator level. So I am getting very involved in this myself.

Senator COLLINS. Speaking of human capital, I am told that the chief financial officer of the SBA as well as three senior staff who were involved in estimating credit subsidies all recently left the agency. That concerns me at a time when you are working so hard to expand your lending programs. What are you doing to fill that particular gap at a critical time?

Ms. MILLS. Well, thank you for that question because it gives me an opportunity to brag about our people a little bit.

Our financial staff did at the period of January–February largely go over to the Troubled Asset Relief Program (TARP). But we have been able to actually build inside a first-rate, crackerjack chief financial officer's office and staff who are doing just a terrific job.

So I am pleased to say that the staff has totally risen to the occasion, and we are very confident about our numbers. As you know, I am a metrics-oriented person. So that is a first priority for us.

SMALL BUSINESS CLUSTERS

Senator COLLINS. Thank you.

And finally, you and I share a common interest in helping to develop business clusters, particularly in rural areas of a State such as in our State of Maine. Does this budget have support for the development of small business clusters?

Ms. MILLS. Yes, Senator Collins.

There is $5 million in this budget, and Senator Collins put forth a bill last year which designed a program for clusters. And much of that is now incorporated in the Commerce Department's $50 million cluster program. This $5 million is designed to have the SBA resources, the footprint that we have on the ground, which is so substantial, be linked and leveraged and aligned with those cluster programs.

Senator COLLINS. Thank you.

Senator DURBIN. Thank you, Senator Collins.

And Administrator Mills, thank you for your testimony today. We certainly appreciate it. We will be working with you and your staff on your budget for the next fiscal year.

Ms. MILLS. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator DURBIN. We will probably submit written questions, and if you can take a look at them and send us some replies on a timely basis, it would help us to do our work.

Thank you for being here today.

Ms. MILLS. Yes, we will do that. Thank you very much.

Senator DURBIN. Appreciate it.

[The following questions were not asked at the hearing, but were submitted to the Administration for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR RICHARD J. DURBIN

RECOVERY ACT: IMPACT ON SMALL BUSINESS LENDING

Question. The American Recovery and Reinvestment Act of 2009 (Recovery Act) provided $375 million to stimulate lending in Small Business Administration (SBA) loan programs, supporting, on a temporary basis, reduced-fee loans for borrowers and a higher federal guarantee under the 7(a) program. SBA's loan data shows that since the Recovery Act, the volume of weekly lending under these new programs has increased by 32 percent. In addition, private lenders who had stopped partnering with SBA to make small business loans are returning to the 7(a) program in large numbers.

How long will SBA be able to continue making these reduced-fee loans?

Answer. The $375 million in Recovery Act funds will support a program level of approximately $8.7 billion for the 7(a) program and approximately $3.6 billion for the 504 program with fee elimination and 90 percent guarantees for 7(a) loans. Initially, SBA projected that these funds would last until the end of calendar year 2009. Given the higher-than-expected increase in lending volume, we now believe those funds might run out in early December 2009 for the 7(a) program, and will last through the middle of December for the 504 program.

Question. To what extent does SBA estimate that lending volume will bounce back from the large drop-off that occurred early in fiscal year 2009?

Answer. Lending volumes are steadily increasing to more historic average levels. As the overall economy recovers, we believe the lending volume will recover as well. In July 2009, the combined 7(a) and 504 volume rose to $1.4 billion, which is approaching the 2008 monthly average of approximately $1.5 billion.

Question. What steps is SBA taking to ensure that lenders stay in the 7(a) program once the fees and guarantee level return to normal levels?

Answer. We have heard from lenders that the higher guarantee has helped them extend credit to small businesses in the current economic environment. SBA continues to work with lending partners to identify areas of improvement in SBA programs. At the same time, the Agency is working to continue to revise and streamline operating procedures and to provide good customer service to lenders, making the agency a better long-term partner. This includes development of a much more robust and modern customer relationship management system, allowing SBA to systematically track its interactions with lenders.

RECOVERY ACT: AMERICAN RECOVERY CAPITAL LOANS

Question. The Recovery Act provided $255 million for a bridge loan program to help distressed small businesses make it through the economic downturn. These American Recovery Capital loans—or "ARC" loans—are risky because they are intended for small businesses that are already experiencing financial trouble. SBA estimates that the total volume of ARC loans will be around $350 million.

In deciding which small businesses are eligible to borrow under the ARC loan program, how does SBA determine if a distressed small business is strong enough to weather the economy?

Answer. SBA's ARC loan program is uniquely designed to meet the needs of viable businesses facing immediate financial hardship. SBA asks businesses to demonstrate their viability by showing evidence of profitability or positive cash flow in at least one of the past 2 years. Future cash flow projections based on reasonable growth going out 2 years should show that the business will be able to meet current and future debt obligations, including future repayment of the ARC loan once the disbursement and deferred payment period end, and operating expenses. Also, the borrower must certify that they are currently no more than 60 days past due on any loan being paid with an ARC loan and they must have an acceptable business credit score as determined by SBA.

Question. How does this compare to SBA's estimated demand for the program?

Answer. Since it was launched last month, the ARC program has been steadily ramping up. Through August 4, SBA has approved over 1,000 loans totaling over $34.5 million. SBA estimates that the funding provided will support approximately 10,000 loan approvals through fiscal year 2010, and the agency believes the program is on track to meeting that projection.

Question. How is SBA ensuring that smaller lenders, like community banks, are able to participate in the program before funding is exhausted?

Answer. SBA trained over 3,300 lending officers at over 1,300 banks on how to make these loans and how to use SBA's electronic lending systems. So far, smaller, community based lenders have made most of the loans in the ARC program. In addition, we have limited lenders to no more than 25 loans per week on a cumulative basis and no more than 1,000 loans in total to help ensure access to the program.

LIQUIDITY OF SBA LOANS

Question. The secondary market for SBA's loans is showing initial signs of improvement due to Recovery Act programs and other changes in capital markets. In

May, sales into the secondary market reached the levels of months prior to the economic downturn. The Federal Reserve has, through May, made about $170 million in loans to investors to purchase pooled SBA loans, and Treasury expects to soon make $15 billion in TARP funds available for the federal government to directly purchase SBA loans.

How will the TARP purchases and the Federal Reserve's loan program complement or support the recent improvements in the marketplace?

Answer. The programs from Treasury and the Federal Reserve have been important in the fragile recovery of SBA's 7(a) secondary market. Treasury's announcement that it would serve as a backstop for the market has provided lenders, brokers and investors with confidence around the market's overall liquidity. Over the past 3 months, the average monthly loan volume settled from lenders to broker-dealers has been $335 million, moving the market closer to pre-recession averages. In July, $324 million settled. At the same time, prices for these loans have begun to recover. In July, 67 percent of the loans settled (50 percent of the dollar volume) were sold at or above premiums of 106.

Similarly, the Federal Reserve's TALF program has now supported over $419 million in SBA-backed securities. SBA continues to work with Treasury and the Federal Reserve to ensure long term health of its secondary markets.

SUBSIDIZING 7(A) LOANS IN FISCAL YEAR 2010

Question. In a typical year, the fees SBA collects on 7(a) loans fully offset the cost of payments the agency makes on defaults. However, SBA's budget request states that in fiscal year 2010, those fees will not be sufficient to keep the 7(a) program operational. SBA is requesting an appropriation of $80 million to keep 7(a) loans flowing to small businesses throughout fiscal year 2010.

What changes will occur between 2009 and 2010 that will cause the risk of 7(a) loans to increase?

Answer. In the current economic environment, SBA has seen an increased number of defaults in its loan portfolio, and this historical performance is factored into the model that estimates the fiscal year 2010 subsidy rate. This increasing default rate means that the risk of a subsequent SBA purchase of a 7(a) loan is more likely than it may have been in previous years. The risk of default in the 7(a) program is actually closely correlated to the unemployment rate in the macro economy. With unemployment on the rise, and projected to remain elevated for some time, we expect a higher default rate in fiscal year 2010.

Question. Does SBA expect that once the health of the economy improves, defaults in the program will return to a level fully supportable by fees?

Answer. The econometric subsidy model that is used to determine the subsidy rates in SBA loan programs uses historical loss rates and defaults in SBA's portfolio as well as macro economic estimates related to unemployment rates and interest rates. Unemployment rates are the most significant indicator of loan default in the SBA 7(a) program credit subsidy model. Once the overall economy improves, and unemployment decreases, SBA may be able to run a zero subsidy 7(a) program. However, this could take several years and depends on many other broad market and economic factors.

LENDER OVERSIGHT

Question. SBA's Inspector General has identified deficiencies in SBA's oversight of lenders. The President's request for SBA's lender oversight activities is $11.3 million, a 3.7 percent increase over the fiscal year 2009 enacted level of $10.9 million.

How will the budget request enhance SBA's efforts to ensure lenders are properly overseen?

Answer. The request will allow the SBA to continue expanding upon its goal of ensuring stewardship and accountability over taxpayer dollars through financial portfolio management and prudent oversight. The Agency will achieve this goal by: (1) continuing to perform on-site lender reviews with the objective of reviewing all large and mid-size lenders and community development companies generally on a bi-annual basis; (2) ensure that these lenders and CDCs whose portfolios comprise more than 80 percent of the Agency's guaranty dollars outstanding are accountable for managing their portfolios in a prudent manner, thus reducing the SBA's overall credit risk; and (3) continuing to monitor its smaller lenders and CDCs through its off-site monitoring process.

The SBA will expand its oversight efforts to the Microloan program by applying its off-site monitoring approach to microloan intermediaries.

The SBA also plans to issue guidance with regard to the use of loan agents by lenders to originate SBA guarantied loans. In addition, as the Loan and Lender

Monitoring System (L/LMS) continues to be leveraged for oversight and portfolio management purposes, more involved data analysis of performance trends will be conducted. The results of these analyses will be used for more effective management of SBA loan portfolios, as well as to assist in identifying irregularities that may be an indication of inappropriate lending activities.

Finally, the SBA will also apply its portfolio analysis capabilities, first developed through L/LMS, to the Agency's disaster loan portfolio. This portfolio analysis capability will be used to provide relevant information for senior management to use in decision making.

The SBA plans to issue further guidance to lenders regarding grounds for enforcement actions and the types of enforcement actions that may be taken by the Agency against lenders. This guidance will increase Agency transparency with its lending partners.

Question. What limitations does SBA face in following up on on-site and document reviews of lender activity?

Answer. As the IG has pointed out, substantial strides have been made in lender oversight, and SBA continues to make improvements in its oversight processes. SBA utilizes a combination of an offsite portfolio monitoring tool as well as periodic on-site examinations of its largest lenders in its risk based approach to lender oversight. SBA published the Lender Oversight Interim Final Rule in December 2008, which provides SBA with increased enforcement capabilities. SBA has a robust system for portfolio management and lender performance evaluation. We are working to make the benefits of this tracking technology infrastructure more accessible and user friendly. Additionally, staffing has been increased by seven positions in the Office of Credit Risk Management over the last 2 years.

Going forward, SBA recently re-procured its contract for off-site monitoring and is starting to make more information available to lenders and SBA staff for portfolio management, redeveloping risk rating metrics to enhance their predictiveness, integration of more dynamic, ongoing evaluation of lenders and loan portfolio—identification and investigation of trends and developments—into oversight activities, and development of procedural guidance related to the lender oversight regulation.

MICROLOAN PROGRAM: FISCAL YEAR 2010 REQUEST

Question. SBA's Microloan program was provided $22.5 million in fiscal year 2009 funding as well as an additional $30 million under the Recovery Act. Yet, the President requests only $13 million for fiscal year 2010. While the budget continues to support a robust level of lending—$25 million—it reduces funding for grants for borrower counseling.

Has there been a measurable increase in demand for Microloans since the Recovery Act became law?

Answer. The Recovery Act provided an additional $6 million in microloan loan subsidy, which supports approximately $50 million in additional microlending to intermediaries, and $24 million in microloan technical assistance grants. SBA was able to expedite expenditure of all 2009 non-Recovery Act microloan funds by mid-July, and now, Recovery Act funds are available for SBA microlending intermediaries to use through fiscal year 2010.

Question. How will Microlenders provide adequate technical assistance to borrowers in fiscal year 2010 if the grant funding is reduced per the budget request?

Answer. These funds, combined with the 2010 budget-requested funds will more than double the size of SBA's microloan program over 2009 and 2010. The microloan grant fund request is adequate to support the needs of current and future intermediaries.

MICROLOAN PROGRAM: EXPANDING MICROLOAN ACCESS

Question. The Microloan program can accommodate up to 300 lenders. However, there are currently only 165 SBA-approved Microlenders. Additional partners would provide small businesses better access to the Microloan program.

What steps is SBA taking to expand the number of Microlenders?

Answer. Since the Recovery Act funding was provided, SBA has received 15 new applications from intermediaries, 9 of which have already been approved. The Agency has reached out to microlending institutions and made presentations at industry conferences and workshops to reach out to potential participant organizations.

SBA is working to make improvements to its microlending program, including through a new electronic application. These program changes and new marketing efforts will help expand the number of intermediary partners that provide microloans to borrowers. SBA has done extensive work with intermediaries around best program practices and is reviewing applications for new intermediaries.

Question. How can SBA connect other federal partners to the Microloan program—for example, Community Development Financial Institutions?

Answer. SBA has reached out to Community Development Financial Institutions and continues to discuss this program opportunity with them.

ENTREPRENEURIAL DEVELOPMENT INITIATIVE: "SWAT" TEAMS

Question. The President's budget requests $20 million for a new entrepreneurial development initiative. Administrator Mills' testimony states that $10 million of this funding would be used to send SBA "SWAT" teams into distressed communities, including regions that have been impacted by the economic crisis.

What criteria is SBA contemplating to use in selecting communities for this assistance?

Answer. To evaluate where SBA's pilot program would be most effective, SBA will consider target criteria that show economic distress such as the following: Unemployment; industries in distress (loss of tax revenue); natural disaster impact; involvement with other federal, state and local agencies; and other economic factors, including Employment and Training Administration or Economic Development Administration referrals.

Individual businesses will be targeted to receive an in-depth assessment to identify steps for stabilization and growth.

ENTREPRENEURIAL DEVELOPMENT INITIATIVE: VETERANS' BUSINESSES

Question. SBA's proposed Entrepreneurial Development Initiative requests $5 million to increase SBA's focus on veterans' business issues.

How would the requested funding help SBA help returning veterans start and grow their small businesses?

Answer. Veterans constitute a special class of business owner. Currently SBA supports eight veterans' centers, but this outreach effort limits the number of veterans assisted to those located within one of these eight immediate geographic locations. To meet the unique needs of returning service men and women, SBA intends to leverage its Entrepreneurial Development networks to reach out to veterans who will need assistance to stabilize veteran-owned businesses and return them to prosperity. With this funding, SBA will: train all of SBA's current resource partners in the unique needs of veterans regarding business start-up or management; and will expand the outreach of existing services (business counseling, training and mentorship) to more veterans. SBA will leverage the knowledge and skills that reside in existing Veteran's Business Outreach Centers to more effectively target this training and outreach.

Question. To what extent is SBA coordinating and collaborating with the Department of Veterans Affairs and other organizations to conduct outreach and implement other initiatives to best address the needs of veterans?

Answer. SBA's Administrator Karen Mills will meet with the Secretary of Veterans Affairs to develop a strategy for greater collaboration, avoid duplication and fill gaps for services to veteran-owned businesses and veterans wishing to explore business ownership.

ENTREPRENEURIAL DEVELOPMENT INITIATIVE: BUSINESS CLUSTERS

Question. Administrator Mills' testimony states that under SBA's proposed Entrepreneurial Development Initiative, $5 million of the requested $20 million will be used to support small businesses that are part of "economic clusters".

How would this $5 million enhance the strength of regional cluster businesses?

Answer. SBA's clustering program will facilitate networking among like-minded businesses that face similar economic problems. The network will promote the development of wide-scale discussions on industry solutions and best practices. SBA's district offices will promote clustering by leveraging existing programs and training opportunities to bring businesses together to focus on common economic challenges and potential linkages between businesses to foster growth. Examples of current or planned industry clusters include: The resurgence of the boat-building industry in Maine; and the robotics initiative in Michigan and southern Virginia.

Question. How would SBA leverage these resources with the Department of Commerce's manufacturing and export programs, trade assistance programs at the Department of Labor, and state and local agencies?

Answer. To expand the Clustering Program's impact, SBA will partner with numerous Federal departments and agencies (Commerce, Defense, Energy, Labor, Agriculture, Export Import Bank, etc.) to leverage extensive industrial knowledge and expertise.

DISASTER LOANS

Question. As of June 2009, carryover balances in the disaster loan program were projected to support over $5.5 billion in new disaster lending. Due to these large balances, the budget does not request additional funds for new disaster loans.

How does the level of balances compare to the needs of the disaster loan program in previous years?

How does that compare to disaster lending after the largest recent disaster, Hurricane Katrina?

Answer. The following chart shows original loan approvals for fiscal year 2005 through fiscal year 2009 to date:

Fiscal Year	Homes		Business		Total	
	Number	Amount	Number	Amount	Number	Amount
2004	25,024	$627,425,200	3,486	$256,065,200	28,510	$883,490,400
2005	52,677	$1,388,084,700	9,398	$890,604,800	62,075	$2,278,689,500
2006	145,164	$8,399,440,708	24,819	$2,770,815,600	169,983	$11,170,256,308
2007	11,760	$457,311,500	2,254	$362,358,400	14,014	$819,669,900
2008	12,755	$536,303,400	2,373	$289,536,700	15,128	$825,840,100
June 2009	16,562	$698,964,200	3,020	$318,105,200	19,582	$1,057,334,500

FEDERAL CONTRACTING

Question. Federal agencies reported that a total of $78 billion in Federal prime contract dollars went to small businesses in 2006. SBA's Inspector General and media reports have highlighted flaws in the Federal procurement system related to these contracts. There is evidence that large firms are awarded contracts reserved for small businesses. Further, federal agencies have inappropriately been counting contracts performed by large firms towards their small business procurement goals. SBA introduced a "scorecard" to rate small business procurement practices at federal agencies, including the accuracy of reporting data, and issued regulations to require small businesses to regularly recertify that they meet certain standards to be considered a small business.

How is SBA working with other federal agencies to ensure contracting personnel are properly trained to understand how small business contracting preferences should be implemented?

Answer. The SBA employs professionals, known as Procurement Center Representatives or PCRs. PCRs are the SBA's "eyes and ears" at the buying offices they cover, ensuring that small businesses, including 8(a), HUBZone, SDVOSB and Women-owned small firms, are afforded the maximum, practicable opportunity to receive Federal prime contract awards. In addition to the informal training, which often occurs during the pre-award consideration stage "negotiations" between the PCR and contracting officers, our PCRs provide and participate in formal training events for buying office staff, including training on how small business contracting preferences should be implemented. Thus far in fiscal year 2009 (October 1, 2008-June 30, 2009), SBA's PCRs have provided training to more than 1,100 staff at Federal buying offices. Additionally, PCRs handle many requests for guidance/training from contracting officers on how small business preferences should be handled on a daily basis.

Also, SBA has worked with other agencies to develop a series of data checks to help ensure data quality. The checks have been used in to help improve the quality of the 2007 data and reduce instances of businesses being incorrectly coded.

Question. What recourses or remedies does SBA use when identifying an award to an ineligible entity?

Answer. SBA has a number of programs to identify potentially ineligible entities for its programs. SBA's primary program for identifying an award to an ineligible entity (i.e., a firm that may be other than small (a large business) is our size determination program. If a contracting officer, an other interested party, or the SBA itself believes that a bidder on a Federal contract may have misrepresented its size, the SBA (through our field network of Size Specialists) will investigate the allegations and make a formal determination as to the firm's size. Our determination is provided to the contracting officer, other interested party (i.e., the protestor) and the protested concern, which under certain circumstances can appeal the SBA's findings. First, size is determined at the time of offer, so firms that are large now may still be counted as small for the life of a contract if they were small at the time of offer. However, SBA's recertification rule requires procuring agencies to accurately reflect a firm's change in size status if there is an acquisition, or merger, or, for long-term contracts, after 5 years and each option thereafter. Second, SBA performs formal size determination in response to protests that may be filed by unsuccessful offerors, the contracting officer or SBA, and these determinations apply to the procurement in question and are binding on the procuring agency. Third, if we determine that a firm willfully or recklessly misrepresented its size status, we may refer the matter to the SBA's Office of Inspector General or propose the firm for suspension or debarment.

The SBA also maintains a Service Disabled Veteran-Owned Small Business (SDVOSB) protest program (at its headquarters) that will investigate claims that an entity may have improperly self-certified its SDVOSB status. Our findings are set forth in a formal determination. If we determine that the firm is not entitled to SDVOSB status, we will issue a formal determination which sets forth the evidence we considered as well the basis for our findings which is provided to the cognizant contracting officer for the appropriate action.

Question. What other steps is SBA taking to oversee the accuracy of reporting on small business contracting?

Answer. SBA has increased its oversight of agency contracting officers who enter the award data into the Federal Procurement Data System, which is the official database for Federal procurement information. As briefly described before, we recently provided Federal agencies with "anomaly reports" identifying specific individual contract action reports which may be miscoded. SBA works closely with the headquarters of those agencies to investigate these apparent discrepancies and to correct the FPDS database, as necessary.

Additionally, the SBA is conducting 30 Surveillance Reviews at major Federal buying offices across the country. Part of these reviews involve an examination of contracts reported to have been made to a small business to determine if the awardee is indeed small and the level of due-diligence performed by the contracting officer when verifying the firm's size.

WOMEN-OWNED BUSINESS RULE

Question. Under the Bush Administration, SBA issued a proposed rule that would limit the use of sole-source contracts for women-owned small businesses to four industries. SBA is currently developing a revised rule related to sole-source contracts for women-owned small businesses.

When will the revised proposed regulation become public?

Answer. One of the Agency's highest priorities is implementation of the WOSB Program as quickly as possible and in a way that withstands legal scrutiny. In furtherance of this goal, the Agency has been working on a revised regulation and is preparing to submit a draft proposed rule for inter-agency clearance. Although I am unable to give you a precise timeline on the WOSB Program implementation because of the nature of the regulatory process, the proposed regulation will be published in the Federal Register for public notice and comment as soon as practical.

Question. What resources is SBA consulting to develop the new rule? How is SBA involving women business owners and other stakeholders?

Answer. SBA has already received approximately 1,700 comments on the previous proposed rule and SBA is considering these comments in drafting a proposed rule. Through the standard regulatory process, SBA will submit a draft proposed rule to OMB for approval and inter-agency clearance. Once cleared, SBA will then publish a proposed rule in the Federal Register which will provide the public notice of the proposed rule and give the public an opportunity to comment on any aspect of the proposed rule. Upon the close of the comment period, SBA will incorporate all of the comments into the rulemaking record and proceed with an evaluation of each comment. SBA will then draft a final rule for publication in the Federal Register which will provide an analysis of the comments received.

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

FEDERAL AND STATE TECHNOLOGY PROGRAM

Question. The Federal and State Technology Program—or FAST—and the Rural Outreach Program provide opportunities for businesses in underutilized areas to participate in the SBIR and STTR programs. By providing matching funds through competitive grants, the FAST program has been successful in increasing total SBIR dollars for small businesses in participating states. Through Louisiana's participation in the FAST program, the state jumped from 47th in the United States to 33rd in total SBIR dollars.

The program hasn't been funded since 2004. Given these programs' past successes, do you support funding this program again at the level of $5 million?

Answer. This program has not had enacted funding since 2004 and the 2010 President's budget does not request funding. However, SBA and the SBIR/STTR agencies work diligently to ensure that awards support high quality innovations through a competitive process. To ensure high-quality innovations, the program elicits applicants from across the country and outreach efforts by participating agencies attempt to elicit the widest range of applications possible to enhance the SBIR and STTR competitive processes.

WOMEN'S BUSINESS CENTERS

Question. For 20 years the Women's Business Center (WBC) program has successfully provided business counseling and assistance to women with an emphasis on those who are socially and economically disadvantaged. With the economic turmoil, this program, too, is seeing an increase in demand from entrepreneurs hoping to establish a small business, as well as requests from small business owners hoping for assistance as they attempt to survive through economic uncertainty. To demonstrate the negative impact on our local technical assistance providers, consider our Women's Business Center in New Orleans, which faced a $45,000 shortfall in funding in 2007—despite the increased demand for their services post-Katrina.

Additionally, much of the country is still not served by this program; with Arkansas, Idaho, Kentucky, Montana, Wyoming, Washington, DC, Guam, Northern Marianas Islands and the U.S. Virgin Islands remaining without centers.

Question. How much would it take to fund all of the present Women's Business Centers and fund a center for each of the states currently not served by one, at the full amount of $150,000?

Answer. The President's budget would assist at least 150,000 clients. Funding 9 additional WBCs within the program at $150,000 would cost $1,350,000.

Question. Why would the President not request the $16.9 million that it takes to fund the present centers at the full amount?

Answer. The current budget provides for a sustained level of performance for existing centers.

In addition, the entrepreneurial development initiative will also serve similar economically or otherwise distressed populations.

Question. Why not request at least what was enacted in 2009?

Answer. The request provides an amount roughly equal to the 2009 enacted amount.

7(A) LOAN GUARANTY PROGRAM

Question. The President requested $80 million for the SBA's 7(a) loan guaranty program for fiscal year 2010. Taking this program to zero subsidy in 2005, as the last Administration did, and shifting the cost to borrowers and lenders by raising the fees has been very controversial. We want this important source of long-term capital to be affordable for borrowers and attractive for lenders, and we want to build on the investment we made in this program from the Recovery Act. Nevertheless, $80 million is a big share of SBA's budget.

Please explain why this $80 million is necessary and what are the consequences if we don't provide the funding?

Answer. The 7(a) upfront borrower and ongoing lender fees are capped by statute in the Small Business Act. In fiscal year 2010, even with the historical (i.e., maximum) fees in place, the 7(a) program cannot execute at a zero-subsidy rate, due to higher defaults and economic assumptions. The Subsidy rate for fiscal year 2010 is 0.46 percent. Therefore, in order to maintain the fully authorized program level ($17.5 billion), the Administration requests $80 million in credit subsidy. If the full request is not provided, the SBA would need to reduce its anticipated program level that the lower appropriated amount would support.

DISASTER

Question. As I have mentioned, last year I worked closely with Ranking Member Snowe and former Chairman Kerry to enact significant SBA Disaster reforms as part of the 2008 Farm Bill. In particular, these reforms increased SBA disaster loan limits, improved disaster planning capabilities, and provided the Agency with new tools for future disasters.

It is my understanding that some of these provisions were immediately implemented, while others are still in the process of being tested. As we approach the 2009 Atlantic Hurricane season, I would like an update from the Agency on its implementation of these reforms.

Please provide us with a status on what has already been implemented and what is in the process of being tested or implemented.

Answer. SBA quickly began implementation of the 2008 Small Business Disaster Response and Loan Improvements Act of 2008 (a.k.a. the Farm Bill), immediately after enactment. Many of the provisions were in place for SBA Disaster Assistance operations during the very active 2008 Hurricane season.

As of June 2009 SBA has met 19 of the 26 requirements. SBA has existing authority to undertake four of the seven remaining requirements, and three are in development stages.

A spreadsheet with status of each provision is attached. This spreadsheet shows which provisions have been implemented or completed and which are still in process.

Section	Status
12061—Economic Injury Disaster Loans to Non-Profits	Implemented/Regulations in Process
12062—Coordination with FEMA	Ongoing/Regulations in Process
12063—Public Awareness of Disaster Declaration and Application Periods	Completed
12064—Consistency btwn. Admin. Regs & SOP's	Completed
12065—Would allow up to $14,000 of a disaster loan to be disbursed without any collateral.	Implemented/Regulations in Process
12066—Processing Disaster Loans	Implemented
12067—Information tracking and follow up system	Implemented
12068—Increased deferment period	Available if needed
12069—Disaster Processing Redundancy	Completed
12070—Net Earnings Clause	Implemented/Regulations in Process
12071—EIDL loans in Ice Storms and blizzards	Available w/Existing Authority
12072—Develop and implement a Major Disaster Response Plan	Completed
12073—Disaster Planning—Full-time Disaster Planning Staff	Completed
12074—Assignment of Employees to the Office of Disaster Assistance and Disaster Cadre.	Ongoing
12075—Comprehensive disaster response plan	Completed
12076—Office Space	Completed
12077—Applicants that have become an MSE	Implemented/Regulations in Process
12078—Disaster Loan Amounts/Mitigation	Implemented/Regulations in Process
12079—Small Business Bonding Threshold	Ongoing
12081—Eligibility for Additional Disaster Asst	Available if needed
12082—Additional EIDL Asst	Available if needed
12083—Private Disaster Loans	In development
12084—Immediate disaster assistance program	Developing pilot for 2010
12085—Business Expedited Disaster Assistance Loan	Developing pilot for 2010
12086—Gulf Coast Disaster Loan Refinancing Program	Available if needed
12091—Reports on Disaster Assistance	Monthly reports are being distributed/ Annual report pending

Question. The President's request for SBA calls for $1.7 million to fund the two Guaranteed Disaster Loan Program Pilot Programs that we enacted as part of disaster reform?

Answer. The President's budget request for 2010 calls for $1.7 million to fund two Guaranteed Disaster Loan Pilot Programs. SBA has developed an outline for these programs which will be vetted with banking industry representative in two planned focus groups. It is imperative that we develop a program that the industry accepts to ensure participation when disaster activity warrants.

Question. Will it be available for the 2009 Hurricane season? (Yes/No)

Answer. The guaranteed commercial lending programs will not be available for the 2009 Hurricane season.

PRESIDENT OBAMA'S SMALL BUSINESS RECOVERY PLAN

Question. President Obama's plan to assist small businesses in gaining access to the credit markets contains elements of proposals that have been pushed by this Committee from the beginning of this economic downturn.

Can you tell us how implementation of that plan is proceeding?

Answer. Through the programs and funding provided in the Recovery Act, SBA has helped small businesses access the capital they need to survive the economic conditions. Recovery Act programs have helped through increasing lending through the 7(a) and 504 guaranteed loan programs, expanding the base of SBA lending partners, providing targeted assistance to struggling businesses through the ARC loan program, and allowing small businesses with higher dollar contracts to obtain

SBA-backed surety bonds. All of the $675 million in SBA program funds are currently available to support small businesses.

Question. Are there any lessons from your business background that can be applied towards improving SBA lending programs?

Answer. Over the course of my career I've had the opportunity to gain valuable insight into the capital access challenges faced by entrepreneurs and small businesses. During the recession of the early 1990s, I was operating small manufacturing companies that supplied the auto industry and that experience gave me a deep understanding of what our small businesses need today to survive this current downturn and to prosper in the years ahead. I've also had valuable experience with the funding needs of high-growth, high-potential companies that I've worked with over the years. That understanding of the capital needs small businesses have—whether you're a Main Street business or a high-growth potential business—is something I bring to this job and something that is guiding our current efforts at SBA to assess the efficiency and effectiveness of our programs and the systems through which we deliver them.

OFFICE OF TECHNOLOGY

Question. The Office of Technology, which promotes and monitors the highly successful Small Business Innovation Research (SBIR) and Small Technology Transfer (STTR) programs, has seen its operating budget cut by more than half during the last 18 years. At the same time, the SBIR and STTR budgets have more than doubled, with participating SBIR and STTR Federal agencies allocating more than $2 billion to small high-technology firms across the country each year.

I find this trend very alarming, particularly when other agencies try to get out of complying with the SBIR and STTR laws, as happened with about $229 million in the Recovery Act, and I am interested in hearing your perspective on how the Office of Technology is handling its oversight responsibilities in light of its diminishing budget.

In your opinion, does the Office of Technology have the staff and funding to meet the program's demands? (Yes/No)

Answer. The budget provides $250,000 for the Office of Technology. Within this amount, the Office provides oversight of the SBIR and STTR programs. I also understand the value of rigorous oversight. That is why SBA has committed to developing comprehensive performance measures for the SBIR and STTR programs. Currently, no continuous or comprehensive measures exist for the programs. With performance measures in place, we can regularly evaluate the effectiveness of these programs. SBA is currently working to implement measures now.

Question. As I just noted, without adequate funding, the Office of Technology cannot function as it was intended and cannot support the SBIR and STTR programs. The Committee believes that in order to provide the Office with the resources it requires, there should be at least $1.5 million allocated for the Office to go toward additional staff, oversight, outreach, travel, and maintenance of its databases.

Would you disagree that at least $1.5 million would be an appropriate amount to meet with needs of the Office of Technology, as Senator Snowe and I have recommended?

Answer. The budget provides $250,000 for the Office of Technology. Within this amount, the Office will provide oversight for the SBIR and STTR programs and will pursue high-priority activities, such as the development of comprehensive performance measures to regularly evaluate the programs' effectiveness.

SBA CONTRACTING PROGRAMS

Question. One of the principle functions of the SBA is to ensure that the Federal government meets its 23 percent small business contracting goal, specifically by reviewing more than $400 billion in federal contracts awarded each year. Several issues have been raised in the past with respect to the SBA not playing its proper oversight role with respect to contracting.

First, do you intend to increase the contracting oversight staff at the SBA—Procurement Center Representatives (PCRs) and Commercial Marketing Representative (CMRs)? (Senator Snowe and I think we need 100 more PCRs and 50 CRMS, which would require $15 million over time.)

Answer. The SBA is in the process of reassessing our internal procedures regarding the criteria for placement of the PCRs and CMRs. As we add and/or replace PCRs and CMRs we want to ensure that they are placed in locations which can maximize their individual and group ability to assist the Government's small business contractor community. Specifically, we are working with the SBA's Office of the Chief Information Officer (OCIO) to move forward with the development and implementation of the electronic Procurement Center Representative (ePCR) program which will allow the Agency to further automate the PCR review process, making it possible for them to examine increased numbers of purchase requests while expanding the PCR's ability to cover Federal buying offices located outside their local commuting area. Implementation of the electronic Subcontracting Reporting System (eSRS) has enhanced the ability of our CMRs to more closely monitor the subcontracting programs in place at the large prime contractors within their portfolios by giving them access to "real time" data. Information entered into eSRS, available to the CMRs, provides for greater scrutiny of the prime's use of small businesses as subcontractors. As the CMRs have ready-access to the prime's reports they can respond more quickly to situations which require their attention. As information on Department of Defense large prime contractors is being entered into the eSRS, we believe that this additional availability of reporting data will only increase the effectiveness of the CMRs to effectively monitor the large primes.

Question. Second, what plans do you have to ensure that minority small businesses—whether through the 8(a) program or as Small and Disadvantaged Businesses—have full access to the Federal marketplace?

Answer. It is crucial that minority-owned small businesses are able to participate fully in the federal marketplace. One way to measure this participation is through the small disadvantaged business (SDB) procurement goal which has been established by statute at 5 percent. Over the past several years, the Federal government has consistently achieved and exceeded this goal.

Our PCRs continue to work closely with the contracting officers at their assigned buying offices to ensure that all small businesses, including 8(a) program participants and SDBs have maximum practicable access to Federal procurement opportunities. Just recently, our PCRs undertook a major initiative with regard to the small business "parity" issue in light of a recent GAO decision which seemed to give priority to HUBZone small business concerns over 8(a) firms in Federal contracting. The Office of Management and Budget released interim guidance that agencies should follow SBA's parity regulations, while the Executive branch undertakes a review of the GAO opinion. Our PCRs have undertaken substantial efforts to ensure that the parity rules are followed while the opinion is being reviewed. To this end, the PCRs have increased training for the contracting officers at the buying offices to ensure they understand the need to conduct adequate market research and have an awareness of their office's achievements relative to their goals when deciding which type of set-aside to use.

Additionally, our PCRs are conducting 30 Surveillance Reviews at major Federal buying offices in fiscal year 2009. As part of these reviews, our PCRs are examining the individual buying office's compliance with the 8(a) Partnership Agreement, in place between the SBA and the higher Headquarters of the buying office reviewed.

While access to federal contracts is one aspect of the business development offered through the 8(a) program, it is not the primary purpose of the program. Because the program is a business development initiative, the SBA is working diligently to better track assistance provided to 8(a) firms through the Business Development Management Information System (BDMIS) and the Business Development Assessment Tool (BDAT).

Questions Submitted by Senator Susan Collins

Question. What is the status of efforts to establish an economic stimulus lending program, a secondary market guarantee authority for pools of SBA 504 program first-lien mortgages, and SBA secondary market lending authority to make loans to important broker-dealers that operate in the SBA 7(a) secondary market?

What are you seeing in terms lending to small businesses? Has the stimulus bill been effective in unfreezing the credit market for small businesses?

Answer. To date, the Recovery Act efforts to eliminate fees and raise guarantees has helped restore access to capital for small businesses. Through reduced fee and higher guaranteed loans, the Agency has supported nearly $8 billion in lending to small businesses using $155 million in Recovery Act subsidy. Additionally, over 800 banks that had not made an SBA loan since October 2008 have made loans through the Recovery Act. At the same time, since March market activity and pricing in the 7(a) secondary market has rebounded from its severe contraction in 2008. Over the past 3 months, the average monthly loan volume settled from lenders to broker-dealers in the secondary market has risen to $335 million, moving closer to pre-recession averages.

On June 15, SBA announced its ARC loan program, aimed at helping viable small businesses weather immediate financial hardship through interest free, deferred payment loans to help them make payments on existing, qualified debts. Since it was launched, the ARC program has been steadily ramping up. Through August 4, SBA has approved over 1,000 loans totaling over $34.5 million.

Two provisions in the Recovery Act were designed to address market disruptions in SBA's secondary markets for guaranteed loans. Both of these programs are entirely new and complex, requiring regulations, procedures, credit subsidy models and systems to implement. SBA is working diligently to develop and implement these programs.

Section 503 established a new secondary market guarantee authority to provide SBA guarantees on pools of 504 first mortgage loans—which have not historically been guaranteed or securitized by SBA. The Agency has drafted regulations, credit subsidy models, procedural guidance and legal forms and agreements for this program. These documents are under review by OMB and through the inter-agency process. SBA has also started developing contracts and systems to implement this program.

Section 509 established a new direct loan program to help broker dealers in the 7(a) secondary market finance their inventories of guaranteed loans. The Agency has drafted regulations, credit subsidy models, procedural guidance and legal forms and agreements for this program. These documents have been sent to OMB for inter-agency and Administrative review. SBA has also started developing contracts and systems to implement this program.

Question. The Recovery Act directed SBA to initiate four new loan programs, and mandated revisions to other programs such as increasing SBA's guaranty on loans to 90 percent and increasing the size of surety bond guarantees. The SBA Office of Inspector General issued a Recovery Oversight Framework document identifying various risks to taxpayer dollars that could result from these new and revised programs. In addition, the OIG recently issued a report on unimplemented recommendations from prior audits that could affect the risks and performance of these programs. This included outstanding audit recommendations regarding the microloan program, which has now received additional funding under the Recovery Act.

What resources is SBA planning to devote to other risk mitigation efforts to prevent or limit these risks?

Answer. Lender oversight regulations were issued in the fall of 2008 that established clear responsibilities and a supervisory and enforcement framework for lender oversight. Additionally, staffing has been increased by seven positions in the Office of Credit Risk Management over the past 2 years. Going forward, SBA recently re-procured its contract for off-site monitoring and is: (1) making more information available to lenders and SBA staff for portfolio management; (2) redeveloping risk rating metrics to enhance their predictiveness; (3) integrating more dynamic, ongoing evaluation of lenders and loan portfolios; and (4) ensuring that trends or developments are identified and investigated when oversight activities surface them.

In the case of the Recovery Act programs, SBA did a comprehensive risk assessment for each of the programs and developed a detailed risk mitigation plan for each program. Senior managers from Capital Access, Office of Credit Risk Management, Office of Chief Financial Officer, and the Office of General Counsel participated in the risk assessment and risk mitigation efforts. The Office of Inspector General reviewed the plans and provided detailed comments.

What resources and efforts is SBA devoting to implementing the outstanding audit recommendations to improve efficiencies in these programs?

Answer. The Agency has committed significant resources to improving lender oversight technology systems and has staffed up to meet the increased demands for new Recovery Act programs and for the processing, servicing and liquidation of Recovery loans.

During fiscal year 2009, the Agency closed 66 OIG audit recommendations out of a total of approximately 200 at the start of the year and addressed in writing the majority of the 50 open GAO recommendations. Over the past 2 years, SBA reduced the average number of OIG audit findings from around 300 to approximately 150–170. In addition, per the 2002 Consolidated Reports Act, SBA's OIG publishes annually its Major Management Challenges (8 this year), with a scorecard rating system from red to orange to yellow to green. "Reds" have gone from 22 to 1 and the number of recommended actions from the high 80s to 26. We continue to work with OIG to incorporate lessons learned from previous audits and to develop corrective actions to minimize waste, fraud and abuse. Additionally, SBA has put in each senior executives job requirements a goal to address and resolve major audit findings in his/her respective program area.

Question. Please describe the current Veterans' Assistance programs that SBA operates (1) by the SBA Vets Office, (2) by SBA Capital Access program, and (3) by

SBA Entrepreneurial Development Office with a detailed description of loan programs (average dollar loans and average business size, geographic breakdown, total dollar volume) and grant programs (average dollar grants, average business size, total dollar volume).

Also please describe SBA's staff efforts at outreach to other federal agencies (U.S. Department of Labor, especially its Veterans Employment and Training Services Office, and U.S. Veterans Administration, the U.S. Department of Defense), state and local governments, not-for-profit organizations and other stakeholders, and identify existing studies, programs, resources and all existing studies, programs, resources and all available federal funding to assist veterans in starting and/or growing a small business that conduct veterans' benefit programs.

Answer. The SBA Office of Veterans Business Development (OVBD) is the lead SBA office for Veterans' Entrepreneurship. OVBD conducts comprehensive outreach to veterans including Reserve component members, for the formulation, execution, and promotion of policies and programs of the Administration that provide assistance to small business concerns owned and controlled by veterans, service-disabled veterans and reservists. The AA/VBD also acts as an ombudsman for full consideration of veterans in all Administration programs. OVBD, working with the Office of Capital Access, was responsible for the Agency establishing the Patriot Express Pilot loan program, which has approved 3,828 loans for $324.2 million for an average loan amount of $84,702 in 2 years, as of June 30, 2009; we enhanced the surety bond guarantee program for veterans, we established a special outreach and web based program for veterans and reservists in the SBDC program, we established a focused veterans and reservists on line program in SCORE, we market the Small Business Training Network to the veterans community, we established, and recently improved the Military Reservist Economic Injury Disaster Loan program, we provide funding to and manage the Veteran Business Outreach Center program, and we have expanded the District Office-Veterans Outreach Initiative. In addition, we oversee the government wide Service-Disabled Veteran Owned Small Business goal program, and OVBD provides training too and e-based ombudsman guidance to in excess of 10,000 veterans and reservists each year. OVBD works with the independent SBA Office of Advocacy in developing critical Advocacy research into veteran's entrepreneurship.

To accomplish its primary responsibilities of outreach and to act as an ombudsman OVBD utilizes:

—*Veteran Business Outreach Centers (VBOC)*.—8 Veteran specific business centers, which operate from a fiscal year appropriation of $1.2 million or $150,000 each.

—*District Office-Veterans Outreach Initiatives (DO–VOI)*.—OVBD Funding and support for district office Veteran Business Development Officers.

—*E-Guidance and Ombudsman Assistance*.—Program guidance provided to agency customers via e-mail.

—*Service-Disabled Veteran Procurement*.—Providing training SD veterans and to contracting officials to improving SD Veteran procurement opportunity.

—*Entrepreneurial Tools Development and Distribution*.—Development and distribution thousands of Veteran and Reservist specific Program guides annually.

—*Policy and Program Development and Implementation*.—Enhanced OVBD, CA, ED, GCBD, ODA programs and policies for veterans and reservists.

—*Inter and Intra Agency Coordination*.—Coordination and cooperation across SBA and representation, liaison and program and policy development with DOD, DOL, DVA, State, local and private Veteran Serving Organizations, numerous public presentations each year, and representation of agency veteran program resources with national media.

Question. Though the Office of Government Contracting and Business Development, SBA's 7j program provides training to 8(a) firms (firms that are socially or economically disadvantaged). These firms are eligible for government contracts set-aside specifically for small businesses; however, because of a firm's status as a socially or economically disadvantaged firm, its employees need more than just financial opportunities to grow. These firms are also in need of technical assistance to help them meet the demands of these contracts. 7j training is a significant part of the 8(a) program effort to promote small business opportunities and growth. Please give a status update report reviewing the last 5 years of the 7(j) program, including number of clients trained, length of training program, cost per client per training program, follow-up actions, description and examples of curricula provided, and all other relevant information that would provide the Committee with insight into the performance of the 7(j) program.

Answer.

	Fiscal year—				
	2005	2006	2007	2008	2009
Number of 7(j) eligible firms assisted	2,107	2,317	2,486	2,021	2,289
Per firm cost	$1,479	$988	$1,344	$2,356	$2,119
Duration of Training	([1])	([1])	([2])	([2])	([2])

[1] 1 and 2 day workshops.
[2] 1 day workshops.

The U.S. Small Business Administration (SBA), Office of Government Contracting and Business Development, 8(a) Business Development Program (BD) is expanding its efforts to provide innovative training and business solutions to 8(a) Business Development Program Participants. Over the past 5 years SBA has funded projects to enhance the business savvy of 8(a) Participants by providing them with fundamental business development strategies as well as the tools to enhance their ability to successfully compete in federal markets.

SBA monitors contractor/service provider performance and analyzes customer feedback from the 8(a) Participant and 8(a) Business Development Field Office personnel to assess the effectiveness of each 7(j) funded project. In addition, periodic surveys of BDS staff in the field are conducted to fine tune and develop initiatives that will foster business growth and enhance performance and the long term viability of 8(a) firms in the federal and commercial sectors.

Fiscal Year 2009

In fiscal year 2009, 7(j) funds have been used to support nine new initiatives. The first project involves the establishment of an 8(a) Association for the Washington Metropolitan Area that supports members throughout Washington, Virginia and Maryland. The 8(a) Association will be established to assist 8(a) certified businesses with valuable educational, promotional, and federal contracting information needed to further advance their level of experience and achieve a higher degree of success.

Secondly, the SBA will continue Phase II of its initiative with the John H. Chafee Center for International Business at Bryant University to provide international business development to 8(a) Participant firms. Phase II of the SBA 8(a) 7 (j) Trade Data Matching Program will provide 7(j) eligible businesses with counseling and training in the areas of international business development that is designed to help small business start, grow and foster success in the international market place. The training will include one-on-one counseling, traditional and online training, feature business forums and traditional peer to peer networking opportunities, business modeling, conferences and access to a sophisticated trade data retrieval system.

Additionally, three face-to-face projects utilizing traditional classroom as well as Webinars are being funded to provide critical business solutions to 8(a) Participants to bolster their ability to compete for and manage federal contracts, develop business strategies, maximize E-Commerce business opportunities, recruit, manage and retain talented staff, and access the capital necessary to grow and sustain business functions. Fifteen workshops are planned which include the following: Marketing to the Federal Government; How to Qualify for the GSA Schedule; Government Contract Negotiations; Proposal Preparation Training; Construction Contracting; Federal Contracting and Government Contract Management; Strategic Alliances; Leadership Skills; One-On-One Business Coaching; Small Business 8(a) Co-Ops; Regional Conferences and Seminars E-Commerce and Internet Business Strategies; Human Capital Management; Participating on Contracting Teams; Obtaining Debt, Equity and Contract Financing; and Planning for and Managing 8(a) Program Transition.

The sixth initiative will permit SBA to develop a Webinars series that will provide an online resource to allow 8(a) and 7(j) eligible firms to obtain direct business development advice from key business development resources. The Technology to host the Webinars will also be provided.

Project seven involves the award of a contract that will be awarded to a vendor to provide a publication that will be given to approximately 4,000 7(j) eligible and 8(a) firms. This publication will increase their knowledge of how to do business with the government to optimize their contracting opportunities.

7(j) funding will also be used to provide enhancements to the Business Management Development Information System (BDMIS). The 8(a) Business Development Assessment Tool 8(a) BDAT) will provide a uniform mechanism to assess the individual management, technical, financial and procurement assistance needs of 8(a) participants. The 8(a) BDAT will also track individualized assistance provided to 8(a) program participants on an annual basis.

Finally, the SBA serves as a co-host with the Department of Commerce Minority Business Development Agency for the 27th Annual Minority Enterprise Development Week Conference. The Office of 8(a) Business Development will provide networking, matchmaking and training opportunities to the 7(j) eligible participants during Minority Enterprise Development (MED) Week 2009.

Fiscal Year 2008

SBA funded six projects using 7(j) Program funds. The first initiative funded Phase I of the international business model developed by the John H. Chafee Center for International Business at Bryant University to provide international business development assistance to 100 8(a) firms. Projects two and three provided face-to-face training and included the following workshop titles, Business Development for Small Businesses Parts 1 and 2, Financial Management for Small Business, and Cost and Pricing Parts 1 and 2. These workshops were also delivered via the web.

In addition, SBA awarded a contract to purchase a technical resource for 8(a) firms entitled “Gems of Wisdom for Increasing 8(a) BD Competitiveness. This book was provided to increase the knowledge base and competitiveness of 8(a) BD firms through the vast network of shareholders such as Offices of Small and Disadvantaged Business Utilization, Procurement Center Representatives and Commercial Market Representatives, Acquisition Team Members including contract offices, program offices and mentors.

The fifth project was awarded in support of the SBA’s Emerging 200 initiative. The purpose of this effort was to increase outreach to areas historically challenged by high levels of unemployment and poverty. The service provider was tasked with identifying 200-inner-city businesses across the country that showed a high potential for growth—and to provide them the network, resources and motivation required to build a sustainable business of size and scale within a designated inner-city geographic location. The sixth and final project funded training activities for the fiscal year 2008 MED Week Conference.

Fiscal Year 2007

During fiscal year 2007, the SBA supported two projects using 7(j) Program funds. The initial project financed face-to-face training provided management and technical assistance to 8(a) firms and other 7(j) eligible businesses through one day face-to-face training for the following workshop titles, Business Development for Small Businesses Parts 1 and 2, Financial Management for Small Business, and Cost and Pricing Parts 1 and 2. This initiative also included individualized business counseling.

The second project purchased a business development resource entitled “Gems of Wisdom for Succeeding in the 8(a) BD Program and Beyond.” The purpose of the publication is to share “gems of wisdom” of successful 8(a) BD graduates about their success in the Program. This book guided and encouraged others 8(a) firms, and it demonstrated that the “hands on” provided throughout the program really matters.

Fiscal Year 2006

SBA funded a single award to provide workshops to 8(a) and other 7(j) eligible firms. Workshops titles included Business Development for Small Businesses Parts 1 and 2, Financial Management for Small Business, and Cost and Pricing Parts 1 and 2. This initiative also included individualized business counseling.

Fiscal Year 2005

SBA funded two awards to provide workshops to 8(a) and other 7(j) eligible firms. Workshop titles included Business Development for Small Businesses Parts 1 and 2, Financial Management for Small Business, and Cost and Pricing Parts 1 and 2. This initiative also included individualized business counseling.

The second project was designed to maximize the return on time invested by each participant. Participants explored different areas of their business and discussed the common elements that lead to success and what decisions and practices might lead a business to fail. Identification of these elements and how they relate to individual business environments prepared participants how to analyze specific strengths, weaknesses, opportunities and threats so that achievable action plans could be developed and implemented. A companion workbook and DVD were produced which enabled SBA Field Offices to provide additional training to 8(a) Participants who were unable to attend previously scheduled workshops.

GENERAL SERVICES ADMINISTRATION

STATEMENT OF HON. PAUL F. PROUTY, ACTING ADMINISTRATOR

ACCOMPANIED BY THE HONORABLE JOSEPH F. BATAILLON, CHIEF JUDGE, U.S. DISTRICT COURT FOR THE DISTRICT OF NEBRASKA; CHAIR, SPACE AND FACILITIES COMMITTEE, JUDICIAL CONFERENCE OF THE UNITED STATES

Senator DURBIN. Next panel is the General Services Administration, and I will give a little introduction here as the panelists are going to take the table.

GSA employs more than 12,000 staff in 11 regions throughout our country; oversees a vast and diverse portfolio of Federal assets; manages more than 8,600 buildings with a total value of $74 billion, including 1,500 Government-owned buildings. This may be one of them.

It is responsible for servicing the workspace requirements for 57 Federal agencies with approximately 354 million square feet of workspace for over 1 million Federal employees in 2,000 American communities. It is a big job. They are big landlords.

First, we will hear the testimony of Paul Prouty, Acting Administrator of the General Services Administration. We look forward to hearing about the GSA's plans to implement the Recovery Act by converting Federal buildings to high-performance green buildings, as well as discussing the 2010 budget.

Also joining us to discuss the budget request for GSA is the Honorable Joseph Bataillon, Chief Judge of the U.S. District Court for the District of Nebraska. He is Chair of the Space and Facilities Committee of the Judicial Conference, which prepares an annual 5-year plan detailing the needs and priorities of the judiciary for courthouse space. GSA and the administration use this project plan in selecting projects each fiscal year and preparing the budget request.

We thank you both for being here. Your statements will be made a part of the official record, and at this point, the floor will be available to each of you for 5 minutes.

Mr. PROUTY. Thank you very much.

Chairman Durbin, Ranking Member Collins, Senator Bennett—good to see you, sir—distinguished members of the subcommittee, I am honored to appear before you today in support of GSA's 2010 budget request. With your permission, I would also like to provide an update on our efforts to implement the American Recovery and Reinvestment Act of 2009.

GSA's fiscal year 2010 budget request supports the administration's commitments to build a transparent, participatory, and collaborative Government through the use of new technologies, as well as address significant shortfalls in our national infrastructure.

The fiscal year 2010 budget request, in conjunction with the Recovery Act, provides $6.4 billion for capital projects. These projects will create new jobs for thousands of Americans and will stimulate industries that have been battered by the economic downturn. In addition, these projects will deliver lasting progress toward modernizing our Nation's infrastructure, reducing the Federal Government's consumption of energy and water, and increasing our reliance on clean and renewable sources of energy.

GSA's fiscal year 2010 budget requests $645 million in net budget authority. This amount is just 2.4 percent of our total planned obligations of $27 billion. The majority of our funds come in the form of customer reimbursements for goods purchased or rent paid for space under GSA's jurisdiction, custody, or control.

For the Public Buildings Service, GSA requests $8.5 billion in new obligational authority. Of these funds, $658 million are requested for the construction and acquisition of critical facility projects for the Food and Drug Administration, the Federal Bureau of Investigation, U.S. Customs and Border Protection, and the judiciary.

We also request new obligational authority of $496 million to address the backlog of repair and alteration projects. Although the Recovery Act funding provides GSA with some relief from our substantial backlog of repair and alteration needs, our inventory of aging Federal buildings requires continued reinvestment.

We also request $40 million for our energy and water retrofit and conservation program and our Federal high-performance green buildings program to help address Federal requirements for energy conservation and reduced energy consumption in Federal buildings.

The GSA Federal Acquisition Service (FAS) is a leading acquisition organization for the Federal Government. Last year, revenues increased by 4.6 percent, making fiscal year 2008 the first year since fiscal year 2004 that GSA has seen revenue growth across the combined programs of FAS. FAS also realized a 2 percent increase in cash collections from our multiple award schedules program. This business resurgence is the result of a concerted effort to reduce operating costs, standardize the fees we charge our customers, and restructure our service offerings.

Today, GSA and FAS are delivering value to our customers by offering products and services that meet or exceed their expectations. As a leader in green Government, GSA continues to encourage Federal agency customers to consider the environmental impact of their acquisition decisions.

The American Recovery and Reinvestment Act has provided GSA with an opportunity to contribute to our Nation's economic recovery by investing in green technologies and reinvesting in our public buildings. The Recovery Act provided GSA's Public Buildings Service with $5.55 billion, including $1.05 billion for Federal buildings, U.S. courthouses, and land ports of entry, and $4.5 billion to convert Federal buildings into high-performance green buildings.

We are moving forward with speed, tempered by careful consideration of our procurement responsibilities and our ultimate accountability to the taxpayer. On March 31, GSA delivered to Congress a list of 254 projects in all 50 States, the District of Columbia, and two U.S. territories to be completed with funds provided by the Recovery Act. GSA selected the best projects for accomplishing the goals of the Recovery Act based on a detailed analysis of a number of factors. Our goals in developing this list were to both put people back to work quickly and increase the sustainability of our buildings.

As of June 5, PBS has awarded contracts totaling $244 million to begin the construction, modernization, or repair of 25 Federal buildings across the country. Of this, $213 million has been obligated to convert GSA facilities to high-performance green buildings. We have also obligated $30 million for the construction of new energy-efficient land ports of entry at Calais, Maine and the Peace Arch at Blaine, Washington.

The Recovery Act provided GSA's Federal Acquisition Service with $300 million to replace motor vehicles across the Federal fleet with those that are new and more efficient. GSA's strategy to improve the energy efficiency of the Federal fleet balances energy efficiency goals with the need to expedite procurement, in order to maximize economic benefit for the auto industry and the economy as a whole.

To date, GSA has obligated $287 million to order over 17,000 fuel-efficient vehicles, of which 3,100 are hybrids. In the final phase of this procurement, GSA will order $13 million of compressed natural gas and hybrid buses and electric vehicles by September 30, 2009.

Today, I have discussed our fiscal year 2010 budget request, the Recovery Act, and GSA's eagerness to undertake the new challenges that lie ahead. Your approval of GSA's budget request is a vital step in helping us achieve our mutual goals of economic recovery, energy efficiency, and increased citizen engagement in Government.

PREPARED STATEMENT

GSA is committed to delivering on these goals, contributing to the long-term objectives of the administration, and providing the best use of taxpayer funds. I look forward to continuing this discussion of our 2010 budget request with you and the members of the subcommittee.

Thank you.

Senator DURBIN. Thank you.

[The statement follows:]

PREPARED STATEMENT OF PAUL F. PROUTY

Chairman Durbin, Ranking Member Collins, and Distinguished Members of the Subcommittee: My name is Paul Prouty and I am the Acting Administrator of the General Services Administration (GSA). Thank you for inviting me to appear before you today to discuss GSA's fiscal year 2010 budget request. With your permission, I would also like to provide you with an update on our efforts to implement the American Recovery and Reinvestment Act of 2009 ("Recovery Act").

GSA's fiscal year 2010 budget request supports the Administration's commitments to build a transparent, participatory, and collaborative government through the use of new technologies as well as address significant shortfalls in our national infrastructure. The fiscal year 2010 budget request, in conjunction with the Recovery Act, provides $6.4 billion for capital projects involving the new construction, major modernization, and repair of Federal buildings. These projects will create new jobs for thousands of Americans and will stimulate industries that have been battered by the economic downturn. Our projects will provide jobs for constructions workers, carpenters, plumbers, electricians, architects, and engineers nationwide. Our demand for building materials will create or sustain jobs in those industries. And these projects will deliver lasting progress towards modernizing our Nation's infrastructure, reducing the Federal Government's consumption of energy and water, and increasing our reliance on clean and renewable sources of energy.

The budget establishes an aggressive agenda for opening Government to the American people by rapidly expanding the use of technology across the Executive Branch. The President knows that new technology is crucial to delivering greater transparency, accountability, and public participation in government. The Recovery Act has been the staging ground for the Administration's new approach to open Government through the innovative use of new technology

The fiscal year 2010 President's Budget creates a vision of Federal IT that goes beyond increasing the public availability of Government data. Data transparency is a key goal of this Administration, but we are limited in our ability to deliver the broader goal of participatory government without substantial changes in the Federal technology infrastructure. Sound and measured investments are needed to increase collaboration across Federal agencies, to open government processes and operations—not just data—to the public, and to consolidate, standardize, and reduce common Federal IT services, and solutions.

Our fiscal year 2010 budget request is a foundational piece for moving forward with the President's vision of transforming Government by transforming Federal information technology. We have proposed nearly $40 million in technology investments, which will improve transparency, accountability, and public participation. The investments included in our request look to 21st Century technologies to accelerate rapidly efforts, which are often characterized as "electronic government".

Our request seeks funding to begin building the capacity in the Federal Government for a culture of openness and transparency. That culture is based on innovative tools by developing new means of delivering Government data, citizen services, and Federal IT infrastructure. GSA's fiscal year 2010 budget requests the resources necessary for GSA to support the President's vision of "leveraging the power of technology to transform the Federal Government". The requested investments will allow GSA to take a dramatic step forward towards expanding public participation in and access to Government data, which will help to deliver greater transparency, accountability, and public participation in Government. Adopting new technologies and new ways to harness existing technology will make the Federal Government more efficient, more effective, and more responsive to its citizens.

FISCAL YEAR 2010 BUDGET REQUEST

GSA's fiscal year 2010 budget requests $645 million in net budget authority for the Federal Buildings Fund and our operating appropriations. This amount is just 2.4 percent of our total planned obligations of $27 billion. The majority of our funding is provided through reimbursements from Federal customer agencies, for purchases of goods and services or as rent paid for space in Federally-owned and -leased buildings under GSA jurisdiction, custody or control. GSA requests appropriations to support capital investments in the Federal Buildings Fund, to provide for our Government-wide responsibilities, and for other activities that are not feasible or appropriate for a user fee arrangement.

PUBLIC BUILDINGS SERVICE

Our fiscal year 2010 budget requests $8.5 billion in New Obligational Authority (NOA) and an appropriation of $525 million for the Federal Buildings Fund. Our request proposes a capital investment program of $1.15 billion, for projects for the Food and Drug Administration (FDA), the Federal Bureau of Investigation (FBI), U.S. Customs and Border Protection (CBP), and the Judiciary.

We have requested $658 million in NOA for New Construction and Acquisition, including $453.5 million for two Agency consolidations and three infrastructure and development projects, $151 million for three land port of entry facilities, and $53 million for two U.S. Courthouse projects. Our request includes the following projects:

—FBI Field Office Consolidation in Miami, FL ($191 million);
—FDA Consolidation in Montgomery County, MD ($138 million);
—Acquisition of Columbia Plaza in Washington, DC ($100 million);
—Southeast Federal Center Remediation in Washington, DC ($15 million);
—Denver Federal Center Remediation in Lakewood, CO ($10 million);
—Land ports of entry in El Paso, TX; Calexico, CA; and Madawaska, ME; and
—U.S. Courthouses in Lancaster, PA and Yuma, AZ.

GSA also requests NOA of $496 million for Repairs and Alterations (R&A) to Federal buildings. Although the funding provided in the Recovery Act gives GSA some relief from our substantial backlog of R&A needs, our inventory of aging Federal buildings requires continued reinvestment. The R&A program will continue to be a strategic priority for GSA, and our fiscal year 2010 request focuses on the highest priority projects in our real property portfolio.

The request includes $176 million in NOA for four major building modernizations, $260 million for non-prospectus level projects, and $60 million for Special Emphasis programs. Our proposed major modernization projects are:

—East Wing (White House) Infrastructure Systems Replacement in Washington, DC ($121 million);
—New Executive Office Building in Washington, DC ($30 million);
—EEOB (Courtyard Replacement) in Washington, DC ($10 million); and
—EEOB (Roof Replacement) in Washington, DC ($15 million).

Our Special Emphasis programs would provide:

—$20 million for Fire and Life Safety Program;
—$20 million for Energy and Water Retrofit and Conservation Measures; and
—$20 million for improvements necessary to transform existing Federal buildings into Federal High Performance Green Buildings.

GSA is dedicating $40 million to our Energy and Water Retrofit and Conservation program and our Federal High Performance Green Buildings program, to help address Federal requirements for energy conservation and reduced energy consumption in Federal buildings. These Special Emphasis programs will upgrade Heating, Ventilation and Air Conditioning (HVAC) and lighting systems, install advanced metering, increase water conservation, support new renewable energy projects, and many other items that will conserve energy in Federal buildings. These programs are in addition to the energy conservation measures that are already incorporated into our prospectus-level New Construction and Repairs and Alterations project requests.

In fact, the Public Buildings Service (PBS) already incorporates sustainable design principles and conservation measures into the design and construction of, and repair and alteration to, many GSA Federal buildings. For example, 100 percent of the new construction projects initiated in fiscal year 2008 were registered for the U.S. Green Buildings Council's Leadership in Energy and Environmental Design (LEED). These projects will be measured against objective standards for sustainable design and construction and will receive LEED certification upon substantial completion. PBS has established a commissioning program, to ensure all building systems are working efficiently, and in a coordinated manner, upon completion of a construction project. PBS performs energy audits and environmental risk assessments on a regular basis to determine where resources should be focused.

These initiatives are just a few of the environmental measures that GSA incorporates into New Construction and R&A projects, in addition to our Special Emphasis programs. Our many environmental initiatives compliment each other to build a comprehensive program to promote efficient use of energy and water, increased reliance on sustainable energy sources, and environmental stewardship in the Federal inventory. These programs not only benefit the environment but increase the value of our assets and reduce operating costs over the life of our buildings.

In addition to our capital program, GSA requests New Obligational Authority for our operating program, in the amount of:

—$4.9 billion for the Rental of Space program, which will provide for 194 million rentable square feet of leased space;
—$2.4 billion for the Building Operations program; and
—$141 million for the Installment Acquisition Payments program.

OPERATING APPROPRIATION REQUEST

While only $270 million of GSA's proposed budget is funded through GSA's operating appropriations, the activities they fund are critical. Our operating appropriations provide for GSA's Office of Governmentwide Policy and the Chief Acquisition Officer, the many Government-wide programs of the Operating Expenses account, the Electronic Government Fund, the pensions and office staffs of former Presidents, and the Federal Citizen Services Fund.

The largest increase in our request is for major new Government-wide E-Government initiatives, supported by the CIO Council and under the auspices of the new Federal CIO. The proposed increase of $33 million in this account would be used to address initiatives in the area of Open Government and Transparency, to move agencies to realize large potential savings through alternative approaches to IT infrastructure, to increase agency use of collaborative technologies, and to advance the adoption of new tools to support innovations in how the Federal Government relates to citizens, the private sector, and State and local governments.

Additional funds requested for GSA operating appropriations include increases for the Federal pay raise and inflation, along with proposed program increases to:

—develop high performance green building standards for all types of Federal facilities;
—develop and enhance multiple Government-wide databases to improve Federal reporting and transparency;
—provide additional training support for the Federal Acquisition Institute, supporting acquisition workforce of all civilian Executive agencies; and
—reflect the full-year cost of the pension and related benefits for former President George W. Bush.

FEDERAL ACQUISITION SERVICE

The Federal Acquisition Service (FAS) had a very successful year in fiscal year 2008. Revenues increased by 4.6 percent last year, making fiscal year 2008 the first year since fiscal year 2004 that GSA has seen revenue growth across the combined programs of FAS. FAS also realized a solid two percent increase in cash collections from our multiple award schedules program. Business with the Department of Defense, FAS' largest customer, increased by three percent in fiscal year 2008. This "business resurgence" is the result of a concerted effort to reduce operating costs, standardize the fees we charge our customers, and restructure our service offerings. Today, GSA and FAS are delivering value to our customers by offering products and services that meet or exceed their expectations.

After 3 years of cost cutting, a protracted hiring freeze, and a major realignment of staff out of the Assisted Acquisition Services portfolio, to other parts of FAS and GSA, we are beginning to realize benefits. FAS now has a workforce that is better aligned with its workload, strong cash balances in the Acquisition Services Fund (ASF), and a stable organizational structure to support a strong mix of programs, which deliver value to customers. However, many years of cost cutting and reorganization have created new challenges for FAS, as major IT investments have been deferred, and staffing levels were reduced across all organizations. GSA must now begin to strategically invest in the FAS infrastructure and workforce to ensure a successful future.

Our future depends on investments in technology and continued process improvements in FAS. Short term investments in information technology tools, such as business intelligence, will improve our ability to understand the buying patterns of FAS customers. Business intelligence will improve our ability to help customers make better procurement decisions, which will result in more efficient use of Federal funds and more effective Government. Additional technology investments must be made to FAS legacy systems, that are as much as 35 years old. FAS has also implemented a Lean Six Sigma program. Lean Six Sigma is a process improvement methodology focused on improving efficiency and quality while reducing costs. Private sector experience suggests that Lean Six Sigma initiatives can produce significant improvements. FAS has already launched several Lean Six Sigma initiatives, which we expect to begin generating efficiency gains in fiscal year 2010 and beyond.

FAS also supports the entire Federal community in promoting good-for-Government initiatives, such as strategic sourcing. Strategic sourcing uses business intelligence to analyze customer spending data and makes recommendations to increase the efficiency and effectiveness of acquisitions. GSA participates in the Government-wide Federal Strategic Sourcing Initiative (FSSI), and has established an FSSI Program Management Office in FAS. FAS manages three major FSSI commodity categories: Domestic Delivery Services, Wireless Telecommunications Expense Management Services, and Office Supplies.

In fiscal year 2008, the Domestic Delivery Services contract had 57 participating agencies, boards, and commissions, with a total estimated spend of $94.7 million and $33.8 million in estimated savings. Wireless Telecommunications Expense Management Services expects to save agencies 25 to 40 percent off their wireless cost of operations. And FSSI Office Supplies has grown to over 50 participating Federal agencies, boards, and commissions, with $10 million in spend. Eighty-nine percent of this work is conducted with small business.

GSA and FAS also actively encourage our Federal agency customers to consider the environmental impact of their acquisition decisions. FAS offers a specially designed page, within GSA Advantage, which allows customers to shop by "Environmental Specialty Category." This application enables customers to search for products and services that are environmentally friendly, contain recycled content, or are bio-based. Customers are able to save time and make informed procurement decisions, as GSA has brought a wide range of products into a common procurement tool. In addition to offering environmentally friendly products, GSA has also a Multiple Award Schedule (Environmental Services, GSA Schedule 899) that is dedicated to environmental services. This schedule provides access to services from environmental clean up and remediation and waste management and recycling services, to consulting services.

The GSA Vehicle Leasing program (GSA Fleet) is another example of our leadership in "Green Government". GSA Fleet enables agencies to fulfill their missions and meet their environmental responsibilities, offering over 80,000 alternative fuel vehicles (AFVs) that are leased to customers to meet their transportation needs. The use of AFVs across the Federal Government helps to reduce petroleum consumption, introduces more efficient vehicles into the Federal fleet and reduces greenhouse gas emissions. This GSA program also helps agencies better meet the requirements of multiple environmental statutes and regulations, including the Energy Policy Act and the Energy Independence and Security Act of 2007.

FAS is well positioned to continue as a leading acquisition organization for the Federal Government and assist agencies in achieving their missions in support of the American taxpayer.

AMERICAN RECOVERY AND REINVESTMENT ACT

The American Recovery and Reinvestment Act ("Recovery Act") has provided GSA with an unprecedented and exciting opportunity to contribute to our Nation's economic recovery, by investing in green technologies and reinvesting in our public buildings.

The Recovery Act provided GSA's Public Buildings Service with $5.55 billion, including $1.05 billion for Federal buildings, U.S. courthouses, and land ports of entry, and $4.5 billion to convert Federal buildings into High Performance Green Buildings. In addition, the Recovery Act provided the GSA with $300 million to replace motor vehicles across the Federal fleet with those that are new and more efficient.

Today, I would like to provide you with an update on GSA's efforts to implement the Recovery Act.

FEDERAL BUILDINGS FUND—RECOVERY ACT

As of June 5, PBS had awarded contracts totaling $244 million, to begin the construction, modernization, or repair of 25 Federal buildings across the country. We have obligated $213 million towards measures to convert GSA facilities to High-Performance Green Buildings, including modernizations of the Thurgood Marshall U.S. Courthouse in New York, the Birch Bayh U.S. Courthouse and the Minton-Capehart Federal Building in Indianapolis, IN, and the Denver Federal Center in Lakewood, CO. We have also obligated $30 million for the construction of new, energy-efficient Land Ports of Entry at Calais, ME, and the Peace Arch at Blaine, WA.

The Recovery Act funds that were provided for investments in Federal buildings will provide many direct and meaningful benefits. First, the money will help the Federal Government reduce energy and water consumption and improve the environmental performance of the Federal inventory of real property assets. Second, much of the funding provided will be invested in the existing infrastructure, which will help reduce our backlog of repair and alteration needs. This will increase the value of our assets and extend their useful life. Third, the funds provided for New Construction will reduce our reliance on costly operating leases, by providing more Government-owned solutions to meet the space requirements of our customers. Finally, we will stimulate job growth in the construction and real estate sectors and drive long-term improvements in energy efficient technologies, alternative energy solutions, and green building technologies.

We know this is not business as usual and we are moving forward with speed, tempered by careful consideration of our procurement responsibilities and our ultimate accountability to the taxpayer. In order to streamline business processes and provide tools and resources to assist GSA's regional Recovery project delivery, the Public Buildings Service (PBS) has established a nationally managed, regionally executed Project Management Office (PMO). The PMO works closely with counterparts in the core PBS organization to leverage PBS resources and expertise. This national operation will be accountable for the following:

—Develop and maintain consistent processes, policies and guidelines;
—Manage customer requirements and expectations at the national level;
—Drive successful project oversight and management;
—Ensure accurate tracking and reporting of Recovery Act funds;
—Manage cross-agency resources; and
—Enable PBS to adopt leading practices in the PBS organization generally.

PBS and the PMO have moved forward quickly. On March 31st, GSA delivered to Congress a list of 254 projects in all 50 States, the District of Columbia, and two U.S. territories to be completed with funds provided by the Recovery Act. These projects fall into the following categories: new Federal construction; full and partial building modernizations; and limited-scope, high-performance green building projects. In the new Federal construction category, we will invest $1 billion in 17 projects; in the building modernization category, we will invest $3.2 billion in 43 projects; and in the limited-scope green buildings category, we will invest $807 million in 194 projects. This totals over $5 billion. GSA selected the best projects for accomplishing the goals of the Recovery Act based on a detailed analysis of a number of factors. Our goals in developing this list were to both put people back to work quickly and increase the sustainability of our buildings.

Many of the projects in the new Federal construction and building modernization categories have previously received partial funding. We can start construction quickly on these projects, while also identifying ways that existing designs can be improved. These categories include projects such as the Bishop Henry Whipple Federal Building in Fort Snelling, Minnesota, a multi-tenant office building project where Heating, Ventilation and Air Conditioning (HVAC), plumbing, electrical and life safety improvements are expected to deliver 23.6 percent energy savings, once the project is completed. This is over and above the 20 percent in energy savings already achieved in this building in recent years.

An example of the innovative improvements we will be making in some of the construction and modernization projects is the Edith Green-Wendell Wyatt Federal Building in Portland, Oregon. As part of this project, GSA will install a new high-performance double glass enclosure over the entire building, which will dramatically enhance energy performance and blast resistance. On the west facade, vegetative "fins" will provide shade, reducing the load on the new high-efficiency HVAC system that will be installed. These are just some of the "green" improvements GSA will make as part of this project. We expect the building to attain a LEED Gold rating.

By using well-established contracting techniques we can start work quickly, and make simultaneous improvements to the existing designs.

In the limited scope category, we have identified a number of projects that can rapidly be deployed in many buildings at once—buildings as varied as the Oklahoma City Federal Building, the Burlington Federal Building U.S. Post Office and Courthouse, and the J. Caleb Boggs Courthouse and Federal Building in Wilmington, Delaware. Through these projects, we can make significant improvement to the energy performance of a building and also improve the working conditions for the people in them.

Greening our buildings will be an ongoing process. As the Subcommittee knows, the Energy Independence and Security Act of 2007 (EISA) and other laws require GSA, among other things, to reduce its energy consumption by 30 percent by 2015; reduce fossil fuel-generated energy consumption in our new buildings by increasing amounts—from 55 percent in 2010 to 100 percent in 2030; and "green" an even greater portion of our inventory. Although the Recovery Act will accelerate our progress in these areas, that alone will not enable us to meet these goals. Our fiscal year 2010 budget request provides the next steps in a long-term program to meet the aggressive goals of EISA and related legislation.

ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT

GSA's strategy to improve the energy-efficiency of the Federal fleet balances energy-efficiency goals with the need to expedite procurement, in order to maximize economic benefit for the auto industry and the economy as a whole. GSA is focusing this procurement on vehicles that will provide long-term environmental benefits, and cost savings, by increasing the fuel efficiency of the Federal fleet. GSA will use newer and more fuel-efficient vehicles and advanced technologies, while at the same time spending funds quickly to provide immediate stimulus to the economy and the automotive industry.

GSA is procuring new motor vehicles only to replace, on a one-for-one basis, operational motor vehicles in the Federal inventory that currently meet replacement standards, so as to not increase the overall size of the Federal fleet. Each vehicle purchased will have a higher miles-per-gallon rating than the vehicle it replaces and the overall procurement will provide a minimum of a 10 percent increase in fuel efficiency over the replaced vehicles.

GSA will only acquire motor vehicles that comply with all Federal environmental mandates. These vehicles will be included in the alternative fuel vehicle-acquisition compliance calculations of the Energy Policy Act of 2005, as well as the petroleum reduction and alternative fuel use increase requirements of Executive Order 13423, "Strengthening Federal Environmental, Energy, and Transportation Management". Vehicles acquired under this procurement will meet, or exceed, standards for greenhouse gas emissions which were established in the Energy Independence and Security Act of 2007.

On April 14, 2009, GSA obligated $77 million to order 3,100 hybrid vehicles for Federal agencies using Recovery Act funds. The vehicles in this initial order are a mix of Chevrolet Malibus, Saturn Vues, Ford Fusions and Ford Escapes. This purchase represents the largest one-time procurement of hybrid vehicles for the Federal fleet.

On June 1, 2009, GSA obligated an additional $210 million. To date, we have obligated $287 million, and ordered 17,200 motor vehicles with funds provided by the Recovery Act.

In the final phase of this procurement, GSA will order $13 million worth of Compressed Natural Gas (CNG) and hybrid buses and low-speed electric vehicles, by September 30, 2009. While this is the smallest segment of the plan, we are excited by the fact that the vehicles purchased will replace some of the highest-emission vehicles in the Federal fleet with much lower-emission vehicles, which will reduce fuel consumption and further the Federal Government's exploration of the use of alternative fuels.

SUMMARY STATEMENT

Today, I have discussed our fiscal year 2010 budget request, the Recovery Act, and GSA's eagerness to undertake the new challenges that lie ahead. We at GSA are strongly committed to ensuring that the responsibilities entrusted to us are exercised in a manner that is effective, efficient, and transparent. My task, and the task of everyone at GSA, is to keep building on our recent successes and to fulfill GSA's mission to acquire the best value for taxpayers and our Federal customers, while exercising responsible asset management.

We look forward to carrying out our role in the Recovery Act, to responsibly deliver modernized and energy-efficient Federal buildings and motor vehicles, and to stimulate the economy by creating jobs and outlaying Federal funds to industries in crisis. Your approval of GSA' budget request for fiscal year 2010 is a vital step in helping us achieve our mutual goals of economic recovery, energy efficiency, and increased citizen engagement in Government. GSA is committed to delivering on these goals, contributing to the long-term objectives of the Administration, and providing the best use of taxpayer funds.

CLOSING STATEMENT

Mr. Chairman, this concludes my formal statement. I look forward to continuing this discussion of our fiscal year 2010 budget request with you and the Members of the Subcommittee.

Senator DURBIN. Judge Bataillon.

STATEMENT OF HON. JOSEPH F. BATAILLON

Judge BATAILLON. Good afternoon, Mr. Chairman, Senator Collins, Senator Bennett, members——

Senator DURBIN. Would you check and make sure that your microphone switch is on?

Judge BATAILLON. Now it is on. Thank you very much.

That is what I say to the lawyers all the time. You have to speak into the microphone, gentlemen.

But at any rate, thank you for inviting us here today. I appreciate the opportunity to appear before the subcommittee today to discuss the judiciary's courthouse construction needs, the process for identifying and prioritizing these needs for Federal construction projects, as well as lease construct projects, which are an alternate approach for acquiring smaller courthouse facilities.

Before addressing those issues, however, I want to convey the judiciary's gratitude to this subcommittee for supporting and furthering the administration of justice through appropriating monies from GSA Federal Buildings Fund for the construction of new courthouses and for the renovation of existing courthouses.

We understand that there are many Federal needs competing for scarce capital resources in Government, and we deeply appreciate the subcommittee's willingness to champion the needs of the judiciary in terms of the real estate infrastructure necessary to conduct the work of the courts and administer justice. We are particularly grateful for the subcommittee's appropriation of additional funds for the San Diego courthouse in 2009 and for its support of courthouse construction with the American Recovery and Reinvestment Act funds.

On April 1 of this year, James Duff, Director of the Administrative Office of the United States Courts, on behalf of the Judicial Conference, transmitted to this subcommittee, other cognizant congressional committees, the White House, the Office of Management and Budget, and the General Services Administration, the 5-year plan for courthouse construction projects as approved by the Judicial Conference of the United States in March 2009.

An advance copy of the plan was provided to GSA earlier this year for use in developing the 2010 Federal Buildings Fund budget request. We are disappointed that none of these projects listed on the 2000 plan—on the 2010 plan appear on the President's 2010 budget.

The projects that were included, however, were Yuma, Arizona, and Lancaster, Pennsylvania, which were initially determined by GSA and by the courts as lease construction projects as opposed to Federal building projects. They now appear on the budget as Federal building projects.

The distinction between these two execution strategies for acquisition of new construction has never been in place before, and it has never been part of the 5-year plan for the courts. Federally constructed projects have to be ranked and prioritized because Federal construction dollars are scarce, and at any given year, only so much money is available to be appropriated for these projects.

Lease construct projects, on the other hand, do not compete with each other for funding from a limited pool of Government construction capital but are privately financed. Consequently, there has been no need for the judiciary to rank or prioritize lease construction projects as long as they fit within our budget requirements.

Moreover, Federal construction has been and remains the primary means by which GSA provides new space for the courts. Lease construction has only played a small role in one or two courthouse construction projects in low-density population areas where a large court presence is not necessarily needed.

In addition, lease construction courthouse projects are delivered in a fraction of the time that it takes the Government to construct a Federal courthouse. This expedited delivery feature is a key benefit to the lease construction alternative.

While the use of the lease construction method has been very modest with the judiciary, it has been critical to the judiciary and GSA to deliver small projects on an expedited basis. We now understand that the Office of Management and Budget (OMB) has raised objections to the lease construction courthouse process, even for modest projects like the ones in Yuma and Lancaster.

If the lease construct execution strategy will no longer be accorded to GSA as an alternative to Federal construction methods for delivery of new courthouses, and the administration seeks funding for these projects from the Federal Buildings Fund, the projects on the judiciary's 5-year plan will suffer, and the President's budget this year is an example of that. None of the 5-year construction projects are included in the President's budget request, only what would otherwise be considered as lease constructions.

If that continues to be the case, lease construction projects would have to compete for scarce Federal building dollars, along with long-term judicial space requirements, and Yuma is a prime example. Yuma was on the verge of a lease construct contract award and scheduled for completion in June 2011. A Federal construction execution will likely delay the project by at least another year or 2 years.

Yuma, to date, has handled over 2,000 defendants, and it is anticipated that they will handle at least 5,000 defendants this calendar year. The security requirements are so limited in this leased facility that ICE has required the court only to process 40 defendants a day because we don't have the capacity to do any more than that, and it becomes a bottleneck for the prosecution of these individuals.

The judiciary was not consulted prior to this change in execution strategy. We are disappointed that the Yuma and Lancaster projects, which we believe are appropriate for the lease construct path, have now been redirected to the Federal construction path, apparently at the expense of the 5-year plan.

With regard to the fiscal year 2010 projects, if they are not funded in this budget year, then they will be pushed back yet again another year, and it has been our experience that every time we push back a project, the costs for the project increase substantially. The judiciary urges the subcommittee to support remaining lease construction as necessary and appropriate and as an alternative to Federal construction, especially in locales where the court space is modest, acute, and of possible intermediate duration.

PREPARED STATEMENT

The judiciary believes that GSA has the authority to use this procurement method, which is a widely accepted method of delivering buildings in the private sector. Again, the judiciary is grateful for the past and continuing support shown by this subcommittee for its facilities and space needs.

Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF JOSEPH F. BATAILLON

INTRODUCTION

Good afternoon, Mr. Chairman, Senator Collins, and members of the Subcommittee. I am Joseph F. Bataillon, Chief Judge of the United States District Court in Nebraska and Chair of the Judicial Conference Committee on Space and Facilities. I appreciate the opportunity to appear before this subcommittee today to discuss the Judiciary's courthouse construction needs, the process for identifying and prioritizing these needs for Federal construction projects, as well as lease-construction projects which are an alternative approach for acquiring smaller courthouse facilities.

Before addressing those issues, however, I want to convey the judiciary's gratitude to this subcommittee for supporting and furthering the administration of justice through appropriating monies from GSA's Federal Buildings Fund for the construction of new courthouses and for the renovation of existing courthouses. We understand that there are many Federal needs competing for scarce capital resources in Government, and we deeply appreciate the subcommittee's willingness to champion the needs of the judiciary in terms of the real estate infrastructure necessary to conduct the work of the courts and administer justice. We are particularly grateful for the subcommittee's appropriation of additional funds for the San Diego Courthouse in the 2009 appropriations bill, and for its support of courthouse construction with American Recovery and Reinvestment Act (ARRA) funds.

FIVE-YEAR COURTHOUSE PROJECT PLAN PROCESS

I would like to begin by describing the process and criteria used to develop the Judiciary's Five-Year Courthouse Project Plan. On April 1, 2009, James Duff, Director of the Administrative Office of the U.S. Courts, on behalf of the Judicial Conference, transmitted to this subcommittee, other cognizant congressional committees, the White House, the Office of Management and Budget, and the General Services Administration, the Five-Year Plan for Courthouse Projects as approved by the Judicial Conference of the United States on March 17, 2009. An advance copy of the Plan was provided to GSA earlier in the year for its use in developing the 2010 Federal Buildings Fund Budget request. The Five-Year Plan is a key output of the Judiciary's Long-Range Facilities Planning process. The Plan consists of an ordinally-ranked list of new courthouse construction projects for which the Judiciary is requesting authorization, funding and execution from the Executive and Legislative Branches. With one minor exception, all of the Federal-construct courthouse projects on the Judiciary's current Five-Year Courthouse Project Plan are projects that were not affected by the moratorium on new construction described below, because they all had received either authorization or funding from the Congress. These projects were evaluated by the Judicial Conference and its Space and Facilities Committee, and placed on the Plan on the basis of the following four weighted criteria: (1) year out of space (weighted 30 percent); (2) security concerns (30 percent); (3) operational concerns (25 percent); and (4) judges without courtrooms (15 percent).

In terms of the courthouse projects that populate the Five-Year Plan, it is important to note that a project is removed from the Plan once it receives the requested construction funding. Should a previously funded construction project require additional funds due to a budget shortfall (e.g., cost overrun), it is not placed back on the list. Thus, the Plan no longer lists the Los Angeles courthouse project, even though this remains the Judiciary's top priority among new courthouse projects. In 2005, Congress appropriated the full construction amount requested by GSA for the Los Angeles courthouse; but when the time came to put the project out for bid, GSA determined that it could not be delivered for the appropriated amount. Several years later, even with a substantial reduction in scope, GSA awaits sufficient funding for this much needed court project.

As part of its cost-containment effort which I will discuss later in my statement, the Judicial Conference has recently adopted changes to its long-range facilities planning process. I will briefly describe these changes, because they include revisions to the way new projects not previously authorized or funded will be scored for placement on future Five-Year Plans. Again, none of the projects on the current Plan were placed there under the new, revised scoring methodology. Under the new methodology, however, courthouse locations will be ranked in order of urgency of need, based on four criteria: (1) judges without chambers (30 percent); (2) judges without courtrooms (20 percent); (3) facility assessment (40 percent); and (4) caseload growth (10 percent). Building security issues are included in the facility assessment criteria. We are in the process of completing plans for approximately 30 districts, representing nearly a third of our courthouse inventory. The Long-Range Facilities Plan includes short- and long-term statistical projections of caseload and personnel in order to estimate future facilities needs, a comprehensive assessment of each courthouse building to see how it meets the needs of the court, and a set of strategies, some involving real estate and some operational solutions, to address current and projected space deficiencies. Security remains an important factor in the determination of urgency of need, but it is now part of the facility assessment criterion, rather than a stand-alone criterion.

COST CONTAINMENT

In 2004, the Federal Judiciary looked into the future and saw that its "must pay" requirements, such as GSA rent, would increase at a pace that would exceed projected appropriations within a few years. Budget projections indicated that rental costs for existing and new facilities would increase 6 to 8 percent annually, outpacing budget growth. The Judicial Conference recognized that controlling rent costs was absolutely critical to avoiding personnel reductions. As part of that effort, a national moratorium on courthouse construction was imposed from 2004 to 2006. The moratorium lasted 24 months and gave the Judiciary time to re-evaluate its space planning policies and practices and to enhance budgetary controls.

The long-range facilities planning methodology for the Judiciary was re-evaluated resulting in a greater emphasis on the ability of a facility to accommodate additional space requirements rather than the physical attributes of a facility in determining whether or not to recommend a new courthouse construction project. If a building has sufficient space, functional issues such as security concerns would then be addressed through repair and alterations and technology strategies. An emphasis on cost, which was the key driver in the development of the new rating methodology, has resulted in a realignment of the criteria for ranking projects, giving greater weight to when a building is out of space and less weight to security and operational concerns.

While the Judicial Conference undertook many other initiatives to reduce rent costs, which I will not enumerate at this time, the moratorium and changes to space planning policies and practices affect the Five-Year Plan process most directly.

LEASE-CONSTRUCTION PROJECTS

While GSA has utilized two execution strategies for the acquisition of new courthouses—Federal construction and lease-construction—the Judiciary has never placed lease-construct projects on the Five-Year Plan. Federally constructed courthouse projects have to be ranked and prioritized because Federal construction dollars are scarce, and in any given year, only so much money is available to be appropriated for these projects. Lease-construct projects, on the other hand, do not compete with each other for funding from a limited pool of Government construction capital, because they are privately financed. Hence, there has been no need for the Judiciary to rank or prioritize lease-construct projects. Moreover, Federal construction has been and remains, the principal means by which the GSA provides new space for the courts; lease-construction has only ever played a minor role, for small (one or two courtroom) courthouse projects in low population density areas where a large court presence is not needed. Use of the lease-construct method has been very modest.

I do want to note, however, that lease-construction is clearly a secondary means of new courthouse execution, running far behind Federal construction in terms of overall capital value. Nonetheless, the Judiciary is mindful that these projects add to the overall rent burden of the courts. Accordingly, it is Judicial Conference policy that each lease-construct project be subject to approval by both the Space and Facilities Committee and the Judicial Conference, and if the project is approved, it is with a specific dollar rent cap.

We now understand that the Office of Management and Budget has raised objections to lease-construct courthouses, even for modest project scopes. If the lease-construct execution strategy will no longer be accorded to GSA as an alternative to the Federal construct method for the delivery of new courthouses, then the Judiciary will need to revisit its courthouse prioritization method. However, the Judiciary urges the subcommittee to support retaining lease-construction as a legitimate, valuable and appropriate alternative strategy to Federal construction, especially in locales where the court space need is modest, acute and of possible indeterminate duration. GSA has the authority to use this procurement method, which is a widely accepted practice in the private sector. Furthermore, lease construct courthouse projects are delivered in a fraction of the time that it takes the Government to construct a Federal courthouse. This expedited delivery feature is a key benefit of the lease-construct alternative. From Judiciary project approval to completed construction, the lease-construct alternative takes approximately 3 years; the Federal construction alternative takes over 10 years, which includes time waiting to place the project on the Plan, and then time expended waiting for funding once it is on the Plan.

GSA FEDERAL BUILDINGS FUND 2010 BUDGET REQUEST

The President's fiscal year 2010 Budget Request for the Federal Buildings Fund does not include any projects from the Judicial Conference-approved Five-Year Courthouse Project Plan. Instead, funding is included for Federal construction of projects in Yuma, AZ, and Lancaster, PA, which GSA and the Judiciary had previously determined should proceed as lease-construction projects. In the case of Yuma, AZ, a critically needed facility in a very busy southwest border location, GSA had already begun the procurement process of preparing solicitations for offers.

The Judiciary was not consulted prior to this change in execution strategy. We are disappointed that these projects, which we believe were appropriate for the lease-construct path, have now been re-directed to the Federal construct path, apparently at the expense of projects on our Five-Year Plan, since no Plan projects were included in the President's fiscal year 2010 budget request. With regard to the projects on the Five-Year Plan for 2010, if they are not funded in 2010, these projects and all projects in subsequent years would be delayed at least a year.

CONCLUSION

Again, the Judiciary is grateful for the past and continuing support shown by this Committee for the facilities needs of the Federal courts. It is clear that while many projects have been successfully executed, much additional work remains to be done. I will be glad to take any questions you have at this time.

Senator DURBIN. Well, thank you both very much.

And first, let me get it straight "Prow-ty" or "Pru-ty"?

Mr. PROUTY. "Prow-ty."

Senator DURBIN. Prouty. Thank you. I'm sorry I mispronounced your name to start with.

DIFFERING CONSTRUCTION PRIORITIES

This really is a classic constitutional confrontation here, the building of courthouses, where we literally have three branches of Government involved in it and obviously going in different directions.

It reminds me when I was in the House, and then Appropriations chairman Jamie Whitten allowed me to come in as a new member, and I said I would like to also serve on the Budget Committee, which was permissible. You could be on Appropriations and Budget. And he said, "You can do it if you want to do it. But just remember, the Budget Committee deals in hallucinations, and the Appropriations Committee deals in facts."

So I went on and took on the Budget assignment. Turned out he was right.

So here, let me show you some charts here just to give you an idea of some things that we have noticed about construction.

This one is interesting, and I think that Senator Bennett will like it a lot. And it shows on the left-hand side what the judiciary lists as priorities in fiscal year 2010, and Salt Lake City is on there.

Senator BENNETT. Why do you think I am here?

Senator DURBIN. I know.

Your timely arrival. And you will notice the President's budget zeroed it out, and then you will notice what the history has been in the past. We have, I guess, appropriated some $40 million for a $211 million project.

I won't go into detail here other than just to show you that the three branches of Government all have different priorities when it comes to this construction. I am going to mention in a moment much of the last chart, the bar chart there, that shows the increased cost, which was a point that was made by Judge Bataillon.

Salt Lake City, off on the right, has been delayed for 9 years, and the estimated cost of construction has gone up from somewhere in the range of $50 million to over $200 million. And we have all been very cognizant of that.

So it appears that the judicial branch picks its priorities. The President then picks his priorities, and then Congress decides what to fund, which may be a different priority. And that has been the way this has worked back and forth or has failed to work back and forth. And I don't know if we will be able to resolve that at this moment, Judge. But we will try to at least discuss it here.

SAN DIEGO COURTHOUSE

If I can ask about two specific courthouses, and I believe one or both have been mentioned. The San Diego courthouse, in the fiscal year 2009 appropriation, we provided an additional $100 million to cover cost overruns necessary to complete the project. The law was enacted in March, but a contract has yet to be awarded. It appears it is stalled once again.

The GSA didn't inform us of a delay. Would you like to tell us, Mr. Prouty, what is going on in San Diego?

Mr. PROUTY. We are currently, at the request of the House staff, reviewing the San Diego housing plan. It appears that there may be some space that is in the building which we, like you, would like to award that is not currently designated for the courts.

So we are putting a plan together. We think that there is some space that we can give to another Federal agency until such time as the courts need that space. So it is just a space requirements issue.

Senator DURBIN. So what is going to happen to the $110 million?

Mr. PROUTY. It is going to be spent and, hopefully, soon.

Senator DURBIN. Okay, and the contracts will be awarded soon?

Mr. PROUTY. I certainly believe that to be true.

LOS ANGELES COURTHOUSE

Senator DURBIN. Let us take a look at a downtown photograph of the home of the National Basketball Association (NBA) champion Los Angeles Lakers.

We appropriated $300 million for the construction of a Federal courthouse in fiscal year 2005, and you will notice that empty lot in the corner there. There is no indication that construction will begin anytime in the foreseeable future. Costs have obviously escalated dramatically in 4 or 5 years, making the initial project prohibitively expensive. As a result, GSA and judiciary have been exploring less costly alternatives.

Can you tell us, when we are so short on money and we do appropriate the money and nothing happens for 4 or 5 years, you can understand why that gives us a fair degree of angst. Would you like to comment on that?

Mr. PROUTY. I think it is safe to say that we are at a total impasse. For the amount of money that we have, we can't build what the courts want. So we currently have a project that—the original project, as you indicated, is with the scope, even the reduced scope, is beyond the money that we have got. We proposed a project, which included a smaller building and a renovation of an existing Federal building, and the discussions continue.

Judge BATAILLON. It has been very problematic for us, and that is a tremendous understatement. I have been on the Space and Facilities Committee for 9 years. The Los Angeles courthouse showed up on the 5-year plan in 1999, and it was scheduled for site and design, number one on our list in 1999 and number one on our list for construction in 2000.

And frankly, the extraordinary increases in construction costs in the Los Angeles area have presented tremendous problems for both the courts and GSA. And we have tried to work together to solve these problems.

The latest scenario would be to split the courts even more than they are already, and Los Angeles is one of the largest courts, if not the largest court in the country that has not had a comprehensive housing plan. And it is important for the courts in order to maintain the way we operate to get this problem solved. And unfortunately, we haven't been able to overcome that.

And part of the problem, I believe, is that any further authorization from the House side for this project has pretty much been blocked.

Senator DURBIN. One last quick question, Mr. Prouty. This morning on National Public Radio (NPR) local broadcast, there was an indication that D.C. charter schools are having a tough time finding space to open new schools. I assume there is some excess GSA property in the District of Columbia. Is it possible that we could open up a dialogue between you and the District of Columbia government and see if there are any opportunities there that could be utilized?

Mr. PROUTY. The answer is absolutely yes, although I don't know the authorities and I don't know the vacant inventory.

Senator DURBIN. Okay. Well, let me try to work with you on that.

Mr. PROUTY. Great. Thank you.

Senator DURBIN. Senator Collins.

Senator COLLINS. Thank you. Thank you, Mr. Chairman.

JUDICIARY'S 5-YEAR COURTHOUSE PLAN

Judge, as Senator Durbin has pointed out, the administration did not follow the priorities set forth in the judiciary's 5-year courthouse project plan. Had the budget reflected your plan, Salt Lake City would have been first on the list. Could you give us more insight into the process? Is there a back-and-forth discussion of the priorities with GSA, with OMB, or did the budget proposal come as a surprise to you?

Judge BATAILLON. Well, the budget proposal came as a surprise to us. We submit the 5-year plan every year to GSA, and then it is up to the President to decide how the President wants to fund our building requirements. The stimulus bill included two courthouses, one in Bakersfield and one in Billings, Montana. And those were both originally slated as lease construct buildings.

When that occurred last year, we received some signals that OMB was changing the way it was interpreting the A–11 circular. And when that happened, then when the President's budget came out this year, I suppose it was somewhat of a surprise, but not too much of a surprise. Because apparently, we have changed the way we have decided to score these courthouses, and it does create problems as far as the 5-year construction plan is concerned.

We have always done a 5-year construction plan. That plan is based on the priorities set by the judiciary. We score these courthouses, and we have rescored these courthouses, and now we even have a new method of scoring courthouses to make sure that the needs of the judiciary, in order to administer justice appropriately, are met. And that is why they give the 5-year plan.

By taking these two projects off of the lease construction line, if you will, or execution plan, it creates a problem about how we prioritize our courthouses. And it really puts these two projects in jeopardy because we have already set the 5-year plan, and the conference won't meet again until September to determine whether we can incorporate these. So it is very problematic for us.

Senator COLLINS. Mr. Prouty, this doesn't make much sense to me. I would understand if the GSA or OMB said we have *x* amount to spend, and we are going to go down the list until that is spent. But it doesn't make sense to me that the priorities are different than those established by the Judicial Conference.

MIAMI FBI OFFICE

Let me ask you about another line item in the construction budget, which is almost as much as it would cost to build the courthouse that is so high on the Judicial Conference list. The budget request includes almost $191 million for Federal construction of a new Federal Bureau of Investigation (FBI) field office in Miami. Prior to this request, the project was originally planned as a lease construct project, which is obviously far lower cost.

What criteria, what objective criteria led GSA to decide to request this funding for the Miami FBI field office at a time—at this time as opposed to other projects that are urgently needed?

Mr. PROUTY. The only—first of all, I want to mention that in the recovery funding, we did fund the top priority, which was Austin. But there are competing challenges here. Both OMB and the Government Accountability Office (GAO) are concerned about the lease construction program. It has been our goal for a very long time to have few, if any, courts in leased properties because it is problematic.

So the challenges have been to find a way to deal with those issues. If you look at the payback on the FBI project in Miami, over the 15 years of that initial lease period that it is beneficial to do a Government construction to the tune of $130 million.

Senator COLLINS. But initially, the upfront cost is more to do construction. Correct?

Mr. PROUTY. The payback, it is $190 million up front. You are right.

Senator COLLINS. And could the FBI's needs be met, should the building proceed as was originally planned as a lease construct project?

Mr. PROUTY. It certainly could have been.

Senator COLLINS. Thank you, Mr. Chairman.

Senator DURBIN. Senator Nelson.

Senator NELSON. Thank you, Mr. Chairman.

Welcome, Judge Bataillon. Mr. Prouty.

Judge BATAILLON. Senator, it is always good to see you.

Senator NELSON. Good to see you.

My colleagues may not know that when I was Governor, I was pleased and proud to recommend you for the judgeship, and I have been proud ever since.

Judge BATAILLON. Thank you very much, Senator.

CONSTRUCTION PRIORITIES

Senator NELSON. One of the challenges that is obvious before us is that the three branches of Government have not come together with any common understanding or common agreement as to where to proceed or how to proceed. Is it possible or is it naive to assume that it is even possible to work with OMB to sit down and go through the priorities? Do we know what their priority list, what criteria they use to establish their priority list that is different than what you do?

I guess first, Judge, I will ask you and then Mr. Prouty.

Judge BATAILLON. Well, OMB communicates directly with GSA on these issues, and GSA, of course, has to, I assume, follow what OMB tells them to do as far as their scoring method under the A–11 circular.

Previously, they have on small projects that the courts have been presenting, that scoring criteria was such that they believed that courthouse buildings were not special use. In other words, that there was no other private market for it. It wasn't uniquely governmental.

A courthouse has courtrooms. You could use that for a banquet hall. You could use that for a gathering hall. And it has office space, just like any other office might have, a bank or any kind of business.

And so, these smaller projects generally were scored so that they could be a lease construct. The part that was scored as uniquely governmental was the marshals' money for the holding cells. And so, we would always bring the money—or the marshals would bring the money up front for the holding cells.

Now OMB, as we understand it, has changed their interpretation of the scoring and has decided that this is a special purpose building, and it ought not to be built as a lease construct. So I am sure the administrator can elaborate on that.

Mr. PROUTY. There certainly is a discussion about the benefit to the Government and about the nature of these properties, and I am certainly not in the position to speak on behalf of OMB. But we, at GSA, would very much like to have a discussion which would preclude these types of discussions in the future.

Judge BATAILLON. So would we.

Senator NELSON. Well, it does seem that that would be part of the answer, to come to some sort of an agreement on whether it is a special use or not a special use to resolve the question about lease construct. And just because they have taken that position that it is special use doesn't make it so.

And hopefully—I don't know how to facilitate that, but I wish you would think about what we could do to help facilitate that because I think we are as frustrated as you are when you see the lack of construction on a project that has been appropriated, and then you see the cost of construction go up. It is as frustrating in some ways as seeing cost overruns. It just takes more Treasury dollars to be able to complete at some point.

If you are putting together another 5-year courthouse project plan, do you have any idea how long it might take for the Judicial

Conference to come up with another 5-year plan? And if you do come up with it, can you come up with it assuming the lease construct under one assumption and then no lease construct under another assumption?

Judge BATAILLON. We can come up with another 5-year construction plan, and the 5-year plan is a priority on how to spend the Federal Buildings Fund money. If it is a lease construct, then it doesn't come out of that pot of money and is just like leasing any other office space, except that GSA makes a contract with a developer. And so, we haven't put those buildings on the 5-year plan for a number of reasons.

One is because we have acute court needs, administration needs like in Yuma, and we want to get the building built as quickly as we can, and it is a small project and so we can deliver it.

But as far as the 5-year plan, we have a particularly difficult problem. In 2004, through 2004 and 2006, we had a moratorium on any construction because of the budget problems that we encountered in 2004 and had to lay off people, as a matter of fact, in order to meet our budget constraints. So we did a moratorium.

And when we did the moratorium, there were 15 courts that had some appropriation from Congress, and so we left those on the 5-year plan. And the 35 that didn't have some appropriation we pushed off of the 5-year plan, and now we are reevaluating all of those courts in what we call an asset management process.

So we have frozen the 13 to 15 courts that were on the original 5-year plan, and now we are trying to bring on other courts on the 5-year plan, and meshing those two groups of folks is getting to be very problematic.

And then if we throw Yuma into the mix or Lancaster into the mix or some other lease construct projects that we are talking into the mix, we have just created a quagmire for the judiciary. But to answer your question, we are smart folks, and if you tell us that we have to do 5-year—put these programs on the 5-year plan, we will do the best we can to do it.

Senator NELSON. Well, I am not telling to you to. I am just asking if you can. It is perhaps over my head to try to require that. But it seemed to me that it might be one of the ways to proceed.

Judge BATAILLON. Well, it is not that you would require it. I think it is basically OMB saying that they won't accept the lease construct process, and GSA communicating that to us, and so then we will have to take a different approach.

But it is a Gordian knot. And I go off the committee in October, and I will be happy to do it then.

Senator NELSON. Well, on the way out, will you rule them in contempt?

Judge BATAILLON. I will try.

Senator NELSON. Thank you. Thanks to both of you.

Senator DURBIN. Senator Bennett.

Senator BENNETT. Thank you very much, Mr. Chairman. I appreciate the opportunity to be here with the subcommittee.

Judge Bataillon, I couldn't have written your testimony better than you wrote it.

Judge BATAILLON. Thank you very much.

SALT LAKE CITY COURTHOUSE

Senator BENNETT. And the chairman, of course, has highlighted the fact Salt Lake City first went on the list in 1998. Is that correct?

Judge BATAILLON. Right.

Senator BENNETT. So it is even older than——

Judge BATAILLON. It has been on the list for 9 years.

Senator BENNETT. Yes. And I would like to—I can't appropriately give you the full letter because the last paragraph of the letter says, "The specific weaknesses in building security highlighted by this inspection should be treated as sensitive information and should not be released to the public."

But this is a letter from the senior inspector of the U.S. Marshals Service just this month, having gone through the Salt Lake City courthouse and looked at the various security problems that are there.

Judge BATAILLON. Right.

Senator BENNETT. Is it your understanding that this project is, to take a term that has been vastly overused here in the Congress in the last 6 months, shovel ready?

Judge BATAILLON. It is absolutely shovel ready. We have a site, and I am sure you have been to the site and seen the chain-link fence that is around it. We moved the Masonic Temple and a local pub in order to get this place, and now we have vacant property in Salt Lake, and it is ready to go.

We have designs. In fact, I have talked to Members of the House and the Senate, and it is a model of appropriateness and efficiency for the judiciary, and it needs to be built.

Senator BENNETT. As I say, I couldn't do this any better than you have done for me.

Judge BATAILLON. Thank you very much.

Senator BENNETT. Mr. Prouty, I would be ungrateful if I didn't acknowledge how helpful you have been over the years, as we have wrestled with this problem. And your office has always been available to mine, and you have always been very helpful.

Now we have been in touch with Alan Camp, who is the project manager in your Denver office, and he has informed my staff that the building prices are at their lowest point in 3 years. And if funding is not received in the 2010 budget, there is the possibility that costs will escalate, and the Salt Lake courthouse currently is projected to come in right under budget. Is that your understanding as well?

Mr. PROUTY. We are seeing—we are testing the market. We are obviously—we do a lot of research in the market. And now with all of the recovery funds, we think we are seeing and we anticipate the projects will come in less than they were. So I think the markets are decreasing. The extent of that we are not sure.

But you are right. The Salt Lake City project, if it were bid today, would certainly come in within budget.

Senator BENNETT. Thank you very much.

Mr. Chairman, I have laid out my case, and I have had a lot of help from your two witnesses, and I am now completely at your mercy.

Senator DURBIN. I have been waiting for this for so long.

Senator BENNETT. Thank you very much for allowing me to participate.

Senator DURBIN. Well, I am glad that you came by, Senator Bennett. You are always welcome here.

Senator Collins, do you have any additional questions?

Senator COLLINS. Mr. Chairman, I would just like to submit for the record, with your consent, a follow-up letter from the chief judge.

Actually, I take it back. It is from the Judicial Conference of the United States. It is a letter from James Duff that expresses disappointment that the budget does not fund any of the projects on the 5-year plan and talks about the impact on the judicial process where courthouses are out of space, as well as the critical security deficiencies.

I think it strengthens the case that our witness has made today on behalf of the judiciary and strengthens the case that Senator Bennett has made as well.

Thank you, Mr. Chairman.

Senator DURBIN. Without objection, it will be made part of the record if you would like it to be. Would you?

Senator COLLINS. Yes, please.

Senator DURBIN. Okay.

[The information follows:]

JUDICIAL CONFERENCE OF THE UNITED STATES,
Washington, DC, June 9, 2009.

Honorable RICHARD J. DURBIN,
Chairman, Subcommittee on Financial Services and General Government, Committee on Appropriations, United States Senate, Washington, DC 20510.

Honorable SUSAN COLLINS,
Ranking Member, Subcommittee on Financial Services and General Government, Committee on Appropriations, United States Senate, Washington, DC 20510.

DEAR CHAIRMAN DURBIN AND SENATOR COLLINS: On April 1, 2009, I sent a letter on behalf of the Judicial Conference of the United States, transmitting the Judicial Conference-approved Five-Year Courthouse Construction Plan for Fiscal Years 2010–2014 to this Subcommittee, the Office of Management and Budget, and the General Services Administration (GSA). An advance copy of the Plan was also provided to GSA earlier in the year for its use in developing the fiscal year 2010 Federal Buildings Fund budget request.

At the time of my letter, we did not know which, if any, projects would be included in the President's 2010 Budget Request. We were disappointed to learn that funding was not requested for any of the projects on the Five-Year Plan. If these projects are not funded in fiscal year 2010, we are concerned that all projects in 2010 and subsequent years will be delayed at least another year—seriously impacting the judicial process where courthouses are already out of space, and critical security deficiencies currently exist. These projects are ranked in priority order, and several are "shovel-ready" with contractors in place and construction ready to begin.

I have enclosed another copy of our Five-Year Courthouse Construction Plan for Fiscal Year 2010–2014 and appreciate any consideration you can give to our courthouse construction needs. If you have any questions, please do not hesitate to contact me.

Sincerely,

JAMES C. DUFF,
Secretary.

Enclosure

FIVE-YEAR COURTHOUSE PROJECT PLAN FOR FISCAL YEARS 2010–2014 APPROVED BY THE JUDICIAL CONFERENCE OF THE UNITED STATES—MARCH 17, 2009

[Estimated dollars in millions]

		Cost	Score	Est. Net Annual Rent
FISCAL YEAR 2010				
Austin, TX	Add'l. S&D/C	$116.1	82.0	$6.5
Salt Lake City, UT	Add'l D/C	$211.0	67.9	$11.4
Savannah, GA	Add'l. D	$7.9	61.3	$3.5
San Antonio, TX	Add'l. D	$4.0	61.3	$9.2
Mobile, AL	Add'l. S&D/C	$190.3	59.8	$4.7
Total		$529.3		$35.4
FISCAL YEAR 2011				
Nashville, TN	Add'l. S&D/C	$183.9	67.3	$7.0
Savannah, GA	C	$95.5	61.3	$3.5
San Jose, CA	Add'l. S	$38.6	54.5	$9.4
Greenbelt, MD	S&D	$14.0	53.8	$1.6
Total		$332.0		$21.5
FISCAL YEAR 2012				
San Antonio, TX	C	$142.2	61.3	$9.2
Charlotte, NC	C	$126.4	58.5	$7.1
Greenville, SC	C	$79.1	58.1	$4.1
Harrisburg, PA	C	$57.3	56.8	$5.4
San Jose, CA	D	$17.2	54.5	$9.4
Total		$422.2		$35.2
FISCAL YEAR 2013				
Norfolk, VA	C	$104.7	57.4	$5.1
Anniston, AL	C	$20.4	57.1	$1.1
Toledo, OH	C	$109.3	54.4	$5.9
Greenbelt, MD	C	$170.0	53.8	$1.6
Total		$404.4		$13.8
FISCAL YEAR 2014				
San Jose, CA	C	$223.9	54.5	$9.4

S=Site; D=Design; C=Construction; Addl.=Additional.

All cost estimates subject to final verification with GSA.

ENERGY EFFICIENCY IN BUILDINGS

Senator DURBIN. Can I switch off courthouses for a very quick observation and question, Administrator Prouty?

I recently was invited to tour what was formerly known as Sears Tower in Chicago. It is now known as Willis Tower. And it was built 35 years ago and I think still is the tallest building in the United States. And maybe it has been eclipsed overseas by some other building, but it is certainly a dominant feature on the Chicago skyline.

And the management company brought me in to show me what their plans were. And their plans involve about a $300 million investment in making this 35-year-old building energy efficient. It turns out when it was built 35 years ago, no one paid any attention to the basics. They have 16,000 single-pane windows in the Sears Tower, for example.

And if you can imagine a heating and air-conditioning system that is ancient by today's modern standards, and it costs a fortune, 125 elevators and all of these things. They have decided that it is economical for them to invest $300 million in energy savings and that it will be paid back rather promptly.

And that, of course, means replacing the windows, maybe even repainting the building, putting wind turbines on every roof, adding solar panels, creating new heating and air-conditioning unit, actually creating a co-generation opportunity with 125 elevators, which with the friction they create can be generating electricity.

They think that this building can become an energy producer to the point where they can build a hotel next door and use the energy off the old Sears Tower to sustain a building next to it.

I think of that in terms of your responsibility with a lot of buildings even older, and pollution coming off of them every day. Someone estimates 60 percent of our pollution comes off of our structures as opposed to what we drive. And I am wondering, as you get into this decisionmaking about the future of GSA buildings, what calculations are you making that may parallel what I found at the Sears Tower?

Mr. PROUTY. I think we are in the same category. I was just going to say that we wished we had buildings so young as 35 years old. Our buildings are a lot older, a lot more inefficient.

There are a lot of really good things that are happening right now. The technology is improving to the point that you are getting a payback that causes these all to pay out in reasonable amounts of time.

Also what we are seeing is green buildings in the market perform better. We also know with the $4.5 billion that we have been given, that we are going to drive that industry. So we absolutely agree. We are looking for every innovative approach we possibly can. We are using solar. We are using wind. We are doing windows. We are doing insulation. We are doing improved technology in all the systems. So we agree we are learning more every day.

I am not an expert. We happen to have an expert with us.

Senator DURBIN. How do you stay in front of it on the technology? For example, it appeared at first blush the window replacement would be some at least double-paned insulated windows, and then it turns out there are other windows coming on the scene with film that allows in the sunlight at certain times of the year—the winter, when you want it—and shields the building, inside the building parts of the year when you don't want it.

And this really just seems to be coming so quickly. How do you evaluate these technologies when you are about to make massive investments?

Mr. PROUTY. Yes, we are tied to the industry. We have a green building program. Kevin Kampschroer leads that program. He is—he meets with them all the time. In many cases, we are leading that industry. So, as you say, it is a very dynamic world. It is changing every day. But the good news is we have $4.5 billion, which causes us to be able to test out some of these new technologies.

Senator DURBIN. At the risk of a commercial announcement, I have discovered a company that just bought a facility in Chicago called Serious Materials. It is out of California. And they have production facilities in several different places, and they are doing the window replacement on the Empire State Building with these new filmed windows. And so, I am going to promote them in the hopes it means more jobs in Chicago, a place that I am proud to represent.

Thank you very much.

Do you have anything further?

Well, thanks a lot for your testimony, Mr. Prouty.

Mr. PROUTY. Thank you very much.

Senator DURBIN. And Judge Bataillon, thank you for coming and giving us an insight into this constitutional clash that we have over the construction of courthouses. Thanks a lot.

Judge BATAILLON. Thank you very much. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator DURBIN. At this point, we are going to recess the subcommittee and tell you that there will be some written questions coming your way. Hope that you can respond to them on a timely basis and maybe by—we will leave the record open until Wednesday, June 24 at noon.

[The following questions were not asked at the hearing, but were submitted to the Administration for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO PAUL F. PROUTY

QUESTIONS SUBMITTED BY SENATOR RICHARD J. DURBIN

RECOVERY ACT IMPLEMENTATION

Question. As part of the Recovery Act, GSA received $5.5 billion, of which $4.5 billion was designated for converting GSA facilities to High-Performance Green Buildings. The Act states that not less than $5 billion of Recovery Act funds must be obligated by the end of fiscal year 2010. GSA has identified 43 buildings for "full and partial building modernizations" at an estimated total cost of approximately $3.1 billion. GSA has also identified 194 buildings for "Limited Scope projects" at a cost of approximately $800,000,000. In addition, the Recovery Act funds an additional $1 billion in construction projects. This is a significant increase in workload as compared with previous years, and recent press reports suggest that there may be as many as 150 vacancies for contracting officers at GSA and shortages in other critical personnel areas.

Given the volume of projects to be undertaken by GSA and the amount of funds to be obligated in fiscal year 2010, how can you assure the subcommittee that GSA will be able to responsibly obligate $5 billion or more by the end of fiscal year 2010?

Answer. To ensure that we responsibly obligate $5 billion or more by fiscal year 2010, GSA has established a centralized program management office (PMO) within the Public Buildings Service (PBS) to oversee and manage recovery activities. The PMO is a small, cohesive, National Office staffed with high performing project managers and subject matter experts who are supported by contract/consultant resources.

The PMO will: manage Recovery Act tracking and reporting efforts; support regional offices by providing contracts, subject matter experts, legal expertise, audit functions, workload/staff modeling, tools, and troubleshooting of program and project challenges; interface with stakeholders, including Congress and tenant Federal agencies; ensure that cost, schedule, and scope are completed as promised; identify resource needs and shift resources to accommodate changing program requirements; and establish a quality review plan to define and assess the key GSA information systems that may contain information required for full Recovery reporting and continually monitor and review the information required for compliance with Recovery Act reporting requirements.

GSA's PBS has enhanced the reporting capabilities of its project tracking database to incorporate additional project milestones into the Variance Tracking Report, a management tool for monitoring and tracking project progress. This report also serves as an early warning tool so management can identify projects that are starting to deviate from the plan and promptly implement corrective activities.

The PMO is undertaking regular and ongoing activities with the Office of Inspector General to ensure effective and efficient program execution, including pre-award audits and ongoing dialogue.

GSA has implemented additional management controls and oversight mechanisms to ensure effective and efficient execution of recovery activities. For guidance, we are drawing on Agency-wide existing management controls, which are based on OMB Circular A–123, Management's Responsibility for Internal Control; the Federal Managers' Financial Integrity Act (FMFIA); OMB Circular A–127 Financial Management Systems; and the Federal Financial Management Improvement Act (FFMIA). GSA's internal control reviews are conducted for Agency program components to ensure that all significant risks are identified, tested, evaluated, and mitigated in a timely and effective manner.

Question. Does GSA currently have sufficient staff to handle these projects?

Answer. GSA is currently using several approaches to ensure there are sufficient resources to manage Recovery Act projects. Our approaches include deploying our experienced personnel to Recovery Act projects and backfilling with temporary hires as well as "industry hires" whose limited terms sunset with the expiration of the Recovery initiative. This solution fulfills our short-term need for a larger workforce without encumbering our long-term personnel goals. These industry hires are recruited from the ailing design, construction, and construction management industries.

GSA is also hiring contractors to support GSA in such areas as data tracking and reporting, reviews of scopes, schedules and budgets, energy performance reviews, design services, construction contracting, technical expertise, and project management.

GSA will continue to evaluate our resource needs on an ongoing basis, to determine where we have gaps and the best means to fill those gaps, including recruitment, contract staff, and redeployment of current staff. We are addressing resource requirements for accomplishing Recovery Act projects as well as our existing workload. We have sought approval from OPM to utilize various hiring authorities and are establishing national contract vehicles to supplement the workforce.

Question. What is the optimal number of FTEs (GSA contracting officers, project managers, and support staff) needed to ensure that GSA will be able to award contracts for the 237 green building "modernization or limited scope" projects and the $1 billion worth of new Recovery Act construction projects in a timely manner?

Answer. GSA has conducted a series of workforce analyses to determine the resources needed to deliver Recovery projects. It was estimated that approximately 232 Government FTE and contractor positions are required in procurement, realty, architecture, engineering, project management, and program analysis to expeditiously and fully support the projects and programs tied to the Recovery Act. GSA will be re-directing existing resources, as well as hiring temporary resources, to meet this workload demand.

Question. How does the optimal number compare to the actual staffing level?

Answer. The optimal number of combined Government FTE and contractor positions is approximately 232 positions. To achieve this staffing level, PBS has redeployed current staff, recruited new hires, and procured contractor support to address resource requirements for accomplishing Recovery Act projects as well as our existing ongoing workload. We are on track to achieve this goal.

Question. With respect to contract oversight, what is the optimal number of FTEs needed to ensure that these projects are appropriately monitored and contractors are delivering the products and services on time and at the proper cost?

Answer. The optimal number of positions estimated above includes contract oversight resource needs. The 232 positions include managers and analysts who are dedicated to monitoring contractor performance and ensuring that projects are delivered in compliance with Recovery Act funding and GSA requirements, on-time and at the proper cost.

Question. How does GSA plan to measure the environmental benefits of the Green Building projects in a quantifiable way?

Answer. We are improving energy performance on a large scale with our full and partial building modernization projects and in specific ways with our limited scope projects. In both types of projects, we expect energy savings from new building controls and adjustments; lighting replacements; new roofs and windows: and building mechanical system upgrades. We are performing detailed surveys of each building to quantify the potential for energy savings. Once the surveys have been completed and the baselines identified, we will be able to estimate the energy consumption reductions for the building specific projects.

Question. How does GSA plan to measure the number of jobs created by the projects?

Answer. GSA will not prepare independent estimates of jobs created by our Recovery Act projects. Instead, we will support the Administration's efforts to collect job data directly from recipients of Federal contract awards and their sub-recipients.

GSA has included provisions in our Recovery Act contracts consistent with interim Federal Acquisition Regulation (FAR) clause 52.204–11. This FAR clause requires recipients of Federal contract awards to submit information required by Section 1512 of the Recovery Act through the www.FederalReporting.gov website.

Question. What the basic distinction between a "partial building modernization" and a "limited scope project?

Answer. Generally, full and partial building modernizations adopt a "whole building approach" and include repairs and renovations to multiple building systems in order to improve energy- and water-efficiency of the entire facility. Building systems, in this case, include Heating, Ventilation, and Air Conditioning (HVAC), building envelope, or lighting. Limited scope projects focus on installing a specific green technology (such as intelligent lighting, or ENERGY STAR roofs) or addressing a single building system.

Examples of repairs and renovations included in full and partial modernization projects include:

—Adding thicker insulation than required by the newest energy codes in climates where it makes sense;
—Installing variable frequency drives to reduce energy and extend the life of mechanical equipment;
—Converting parking structure lighting to LED (light-emitting diode), which dramatically lowers energy consumption, improves safety and visibility and reduces maintenance as LEDs can last two to three times as long as typical parking lot lights;
—Retrofitting or replacing less efficient windows; and
—Specifying dual flush toilets and waterless or low water urinals to save water and reduce demand on aging city sewer systems.

Examples of limited scope improvements include:

—Installing intelligent lighting systems that provide daylight and provide controls for occupants to adjust for ambient light versus task light;
—Replacing flat roofs with ENERGY STAR membranes; integrated photovoltaic panels bonded to the membrane; or planted roofs. These options offer benefits ranging from increasing the life of the roof, to producing energy and to reducing the "heat island" effect of a black roof; and
—Accelerating the installation of advanced meters—required under the Energy Policy Act to be completed by 2012. Advanced meters enable us to better manage buildings by instantaneously providing information on a building's energy use and encouraging immediate operational changes.

Question. What will be GSA's approach to prioritizing among the 43 "full and Partial Modernization Projects" for implementation? Among the 194 "limited scope" projects?

Answer. GSA's priorities for "Full and Partial Modernization" and green "limited scope" projects are based on the purpose of the Recovery Act: (1) Stimulate the American economy by spending money quickly; and (2) Improve the environmental performance of Federal assets, particularly reducing our dependence on carbon-based fuels.

Within these broad objectives, each class of project is prioritized based on the following criteria:

Full and Partial Building Modernization projects:

—High-performance features concentrating on energy conservation and renewable energy generation.
—Speed of construction start (job creation).
—Execution Risk (ensuring that the projects will not fail due to unforeseen conditions).
—Facility Condition. The Facility Condition Index is a standard real estate industry index that reflects the cost of the repair and alteration backlog of a particular building relative to the building's replacement value.
—Improving Asset Utilization.
—Return on Investment.
—Avoiding Lease Costs.

—Historic Significance.

Limited Scope projects are prioritized based on energy performance (beginning with the worst performing buildings) and informed by existing physical condition surveys:

—Projects are initially prioritized based on Energy Use Intensity: Btus/Gross Square Foot.

—This list is refined, based on input from Regions on specific building conditions and operations.

—Preference is given to projects in descending order of: energy conservation, return, or high-performance improvement.

No project is on our list if it does not deliver a positive return on investment.

UNDERUTILIZED OR EXCESS FEDERAL PROPERTY

Question. Underutilized or excess federal property is a significant problem that puts the government at significant risk for lost dollars and missed opportunities. GAO reported in May 2007 that GSA reported 258 buildings, with 13.8 million rentable square feet, as excess property. In order to help other agencies better serve the public by meeting—at best value—their needs for real property such as federal buildings and to meet its goal of exemplary management of buildings, GSA should reduce its excess and underutilized property.

What strategy will GSA employ to help the federal government reduce its excess and underutilized property?

Answer. GSA is responsible for managing the utilization and disposal of Federal excess and surplus real property government-wide, and we have a comprehensive strategy for promoting the effective use of Federal real property assets.

GSA Properties.—GSA has over 1,000 properties in our portfolio, making the disposal of underutilized real property a considerable task. GSA works together with partner Federal agencies, State and local governments, nonprofit organizations, business groups, and citizens, to ensure that we create a lasting, positive impact on communities by making valuable government real estate available for numerous public purposes. Properties that are not conveyed to eligible recipients for a public purpose are sold by competitive bid to private individuals.

In fiscal year 2008, GSA disposed of 13 of our own properties, valued at approximately $58.5 million. These disposals provided revenues of $56 million for the Federal Buildings Fund (FBF).

Other Federal Agencies.—GSA supports the Administration's goals of disposing of unneeded real property and reducing Federal spending by providing a variety of asset management and disposal services to other landholding Federal agencies. GSA assists those agencies in developing asset management plans and strategies, in accordance with Executive Order 13327, "Federal Real Property Asset Management", and provides a variety of asset utilization and disposal services, including: Understanding the role of each asset in supporting agency mission objectives; examining current and future utilization alternatives; collecting and organizing title, environmental, historical and cultural information; and identifying real estate and community issues affecting the property.

In fiscal year 2008, GSA disposed of 235 properties valued at approximately $192.2 million for other Federal agencies. GSA also conducted 26 targeted asset reviews to help agencies identify underutilized real property assets and improve their compliance with E.O. 13327.

PROJECTS REQUESTED FOR FISCAL YEAR 2010

Question. The 2009 Omnibus Appropriations Act required the fiscal year 2010 budget submission to include 5-year plans for Federal Building and Land port-of-entry projects. However, these plans have not been furnished to the Subcommittee.

Why were these plans not included in the Budget submission? When will they be provided?

Answer The 5-year capital plans required by the fiscal year 2009 Omnibus cannot be completed without input from many different customer Federal agencies. Our customers' long-term requirements and GSA's needs have changed as a result of the substantial new funds provided in the Recovery Act. The complexities created by the Recovery funding—as well as the increased workload that it placed on Federal capital planning staff—made it difficult to prepare a 5-year forecast of capital investment needs in time to include it in the fiscal year 2010 budget submission.

The required plans will be submitted as soon as they are coordinated. GSA will include the plans in future budget requests.

REPAIR BACKLOGS

Question. Restoration, repair, and maintenance backlogs in federal facilities are significant and reflect the federal government's ineffective stewardship over its valuable and historic portfolio of real property assets. As part of its 2008 financial statement, GSA reported about $7.3 billion in capital repair and alteration work items that had not been addressed by ongoing projects.

To what extent, if any, will the funding provided by the American Recovery and Reinvestment Act address these needs?

Answer. GSA expects Recovery Act funds to reduce the backlog of traditional Repairs and Alterations (R&A) needs by $1 to $1.5 billion. Of the $4.5 billion of ARRA funds directed towards High-Performance Green Buildings, almost two-thirds has been dedicated to energy improvements and greening initiatives, and the remainder will directly address the R&A backlog. The $1.05 billion provided for Federal buildings and LPOE projects will be used for New Construction, and will not have a direct impact on our repair and alterations liabilities.

Question. What action is GSA taking to ensure that recently constructed and recently renovated properties are maintained so the situation of allowing facilities to deteriorate does not continue?

Answer. GSA strives to maintain a portfolio of assets that are in "Good" condition, meaning needed repairs are less than 10 percent of the asset's functional replacement cost. GSA maintains the condition of these core assets through strategic reinvestment throughout the life of the asset. Asset condition is evaluated and monitored annually, through a series of asset management diagnostic tests. When repair and alteration needs are identified, such repairs are addressed through the minor repairs and alterations program. Recently constructed and recently renovated properties have few, if any, repair and alteration needs.

GSA has made progress in improving the condition of its portfolio of assets through strategic management of existing assets, and Recovery Act funding provided for repair, modernization, and green initiatives. For example, 50 U.N. Plaza in San Francisco, CA, had been mostly vacant, and Recovery Act funding will allow this historic asset to be fully utilized again. However, despite the investments of the Recovery Act, GSA continues to face challenges from maintaining an aging building portfolio. The Recovery Act is expected to reduce GSA's R&A backlog by approximately $1 to $1.5 billion.

QUESTION SUBMITTED BY SENATOR MARY L. LANDRIEU

CUSTOMS HOUSE

Question. The New Orleans Customs House is a magnificent historic structure located on the edge of the French Quarter that dates back to 1848. During Katrina, its roof failed, and the building suffered significant water damage. Since that time, GSA and Customs have dedicated funding to repair the building, and it is scheduled for re-occupancy in the spring of 2010. The Customs House is the only National Historic Landmark building in GSA's Southwest Region, which is based in Fort Worth, Texas. This subcommittee included language in the previous year's appropriations report that mentioned the building by name and underscored its significance to the local community. Section 307 of the Stafford Act and GSA Policy Number 2851.5 both require that preference for reconstruction work following a major disaster be given to locally-based firms. However, there are no Louisiana firms under contract to perform work on the Customs House.

Will you and the Chief Architect of GSA work with my office to ensure that the agency complies with the Stafford Act and follows its own policy on Gulf Coast reconstruction projects, by allowing locally-based Louisiana firms to participate in the restoration of the Customs House?

Answer. Yes, GSA will work with Senator Landrieu's office to address any questions on the restoration of the New Orleans Customs House.

Phase I of the New Orleans Customs House repair and alteration is for Hurricane Katrina reconstruction, and as such is governed by the Stafford Act. The design-build contract has been awarded to a local business: Carl E. Woodward, LLC, a New Orleans-based firm. The Phase I design firm is Waggonner & Ball Architects, also of New Orleans. As of July 2009, $36 million has been awarded. 95 percent of that amount, or approximately $34 million, has been awarded to Louisiana-based subcontractors.

Phase II of the Customs House restoration does not involve any work covered by the Stafford Act, such as debris clearance, supply distribution, or reconstruction work. Nevertheless, GSA has awarded 35 percent of the design contract to

Waggonner & Ball Architects of New Orleans. The remainder of the Phase II design contract was awarded to a design firm that, while not locally-based, had extensive prior experience working on the Customs House, and was able to present a fair and reasonable price for the remaining design work. The construction contract for Phase II repair and alteration is anticipated to be awarded during or near January 2010. GSA is encouraging organizations, firms, and individuals residing or doing business primarily in New Orleans to submit proposals for the final portion of the Customs House restoration work, and is considering holding a local business workshop on the subject during autumn 2009.

Re-occupancy of the Customs House is scheduled for Summer 2011.

QUESTIONS SUBMITTED BY SENATOR SUSAN COLLINS

Question. It seems like the $4.5 billion provided for converting GSA facilities to High-Performance Green Buildings will create a great deal of demand for "green" building products and technologies, such as LED lighting and solar roofing materials.

Is the domestic market for these materials strong enough to meet these needs?

Answer. GSA is investigating the capacity of American manufactures to provide products, particularly in the energy efficiency sector, to be installed and used in GSA's Recovery projects. GSA is using the services of a major construction management firm with close ties to the construction industry to analyze product requirements and project schedules. We are also using information already collected by the Department of Energy in this analysis. As part of this effort, GSA plans to manage project schedules and by extension, product orders, to level demand for specific manufactured products and materials.

Question. Will all of these materials come from American manufacturers?

Answer. The Recovery Act generally requires Federal agencies to utilize iron, steel, and manufactured goods produced in the United States for Recovery projects. GSA is asking the American manufacturing community to help meet its goal of "on time, on budget, on green." Although specific requirements vary by product type and project, GSA strives to use American-made goods to the greatest extent possible on all Recovery Act projects.

Question. Will GSA take any additional or extra steps to ensure that local, small businesses can compete to provide "green" products or services?

Answer. GSA's Recovery Act projects provide many opportunities for small businesses:

—GSA has planned over 200 high-performance green building limited scope projects, which range in size from $114,000 to $107,000,000, and together total just over $800 million.

—Other opportunities include an additional $296 million for small projects across the country.

—Opportunities also exist in support service contracts, such as acquisition and project management support.

GSA will support small businesses through the use of new small business set-asides where adequate competition and competitive pricing can be achieved.

GSA is also preparing a list of Indefinite Delivery, Indefinite Quantity (IDIQ) contract holders: This list will be made publicly available to assist small businesses in obtaining sub-contracts with existing GSA contractors. All bid opportunities will be advertising on www.FedBizOpps.gov.

GSA is hosting partnering events that provide opportunities for small vendors to present qualifications and form relationships with prime contractors. We have also developed a communication network through small business associations, to provide information to vendors across the nation.

GSA remains committed to negotiating aggressive small business subcontracting plans with our prime contractors for large design and construction contracts. As appropriate, GSA will publish prime contractor contact information online

Question. GSA's lack of responsiveness to this Committee and to the Committee on Homeland Security and Governmental Affairs is very problematic. As you know, both Committees have oversight over GSA's policies and activities, and are responsible for ensuring that GSA is using Federal funds effectively. Inquiries to GSA—particularly questions relating to the Public Buildings Service and construction projects—take a very long time to generate responses, and sometimes are never answered.

GSA frequently takes months to prepare responses to formal letters. Are you aware that this is a problem for GSA? Can you identify steps that you will take to improve this situation and ensure that GSA responds to Congressional inquiries—formal and informal—in a timely manner? If not, will you agree that this is a problem and will you commit to taking immediate steps to improve this situation?

Answer. GSA is aware of the problem and we are currently analyzing our organizational structure and internal processes to correct this issue. The Public Buildings Service (PBS) has merged its legislative and correspondence offices into one office that reports directly to the PBS Chief of Staff. We have analyzed the correspondence process within PBS and are testing a new process starting July 30, 2009. We believe the new procedures will streamline the correspondence process within PBS and reduce the overall time it takes to return letters. In fact, PBS is aiming to reduce response time within PBS from months to 7 business days. This would include receiving the letter, vetting the request, researching the answer, drafting a response, and obtaining proper internal clearance for the draft response, to ensure we have properly answered the letter.

Question. The Fiscal Year 2009 Omnibus Appropriations Act includes separate provisions directing GSA to provide both a 5-year plan for Federal buildings and a 5-year plan for land ports of entry in fiscal year 2010 Congressional Budget Justification materials. GSA did not provide these plans in their budget justification materials and has yet to provide them to the Committee.

If these plans are not available, what is the basis for GSA's fiscal year 2010 request for Federal building construction and land ports of entry? How can this Committee be certain that the projects included in your request are the best or most pressing needs for Federal construction?

Answer. GSA's fiscal year 2010 request for New Construction projects concentrates on space consolidation efforts, for the Food and Drug Administration and the Federal Bureau of Investigation, and for mission-critical requirements that cannot be easily met in leased space.

Our customers' long-term requirements and GSA's needs have changed as a result of the substantial new funds provided in the Recovery Act. However, the Recovery Act plan was based on shovel-ready projects, and a large number of high-priority needs remain that were not "shovel-ready" at the time the Recovery Act plan was prepared.

The required plans will be submitted as soon as they are coordinated. GSA will include the plans, as required, in future budget submissions.

Question. Although GSA has not provided 5-year plans for Federal buildings or Land Ports of Entry, this Committee does have the 5-year courthouse plan of the Judiciary. But neither of the courthouses in GSA's request are on that list. The projects on the Judiciary's list are scored and ranked by fiscal year.

In developing the fiscal year 2010 budget request, why did GSA not follow the priorities set out in the Judiciary's Five-Year Courthouse Plan?

Answer. The funding provided by the Recovery Act allowed GSA to fund a large program of Courthouse requirements in fiscal year 2009 and fiscal year 2010; this freed up funds to meet the needs in Lancaster and Yuma with Federal construction.

Our Recovery Act project plan includes 6 Courthouse New Construction projects, including the Austin Courthouse ($116 million), which is the highest priority Courthouse to be identified by Judiciary in their Five-Year Plan. The Recovery Act project plan also includes funds for repair and alteration work on more than 110 Courthouses.

Question. What objective criteria led GSA to select Lancaster, Pennsylvania, and Yuma, Arizona, over the projects on the Judiciary's list?

Answer. These projects were originally identified as potential lease construction projects. Both OMB and GAO have been closely reviewing lease construction scenarios and have determined that it is often not in the best interest of the Federal Government and the taxpayer. In this case, GSA performed a 30-year present value life cycle cost comparison between Federal construction and leasing. The analysis considered both the government's equity and its capital and operating costs in each alternative to determine the lowest net costs expressed in present value terms for a given amount of space. The inherently governmental nature and long term requirement of these courthouses make Federal construction a financially responsible solution. A lease construction project would involve annual above-market rent outlays from the government over the life of the lease without any benefit of residual value at the end of the lease. The life-cycle cost analysis supports Federal construction as the best value to the taxpayer.

The Courthouse project in Yuma, AZ was originally proposed as a lease construction project because funding was not expected to be available to meet the Judiciary's requirements with Federal construction. GSA was also working with the Courts to develop a potential lease construction project in Lancaster, Pennsylvania. If funding were provided through the 2010 Appropriations, both projects would be converted to Federal construction, which would allow for a government-owned solution and save taxpayer money.

Question. GSA seems to have an inability or unwillingness to appropriately address the needs of local communities when planning and executing Federal construction projects. For example, this is apparent in GSA's dealings with the Madawaska, Maine community.

Does GSA have a formal process for collecting public input on construction projects?

Answer. At GSA, we take pride in our work with communities when planning and executing Federal construction projects. Large or complex development projects often engender competing views on community impacts. GSA conducts formal and informal communications with local communities throughout all stages of the design and construction process for new construction projects.

During the planning stage of a project, GSA utilizes the process set forth by the National Environmental Policy Act (NEPA) to solicit public involvement and input from residents, business owners, local and state officials, and affected agencies. GSA typically hosts a public meeting to hear local concerns and provide contact information for those who want to comment directly to the agency. GSA takes into consideration issues raised by the public at these meetings or in writing to determine and update the scope of the prospectus development study. NEPA documentation is made available to local communities as it is developed. GSA then evaluates and responds to those comments as a part of our NEPA process.

Additionally, GSA holds community open house meetings and hosts stakeholder meetings at key stages during project design. For example, GSA held a stakeholders' meeting for the Madawaska Land Port of Entry on March 31 of this year. Nearby businesses (Fraser Paper and Montreal, Maine, and Atlantic Railway, Inc.), Town of Madawaska officials, Congressional delegation representatives, and the facility's future tenant, the Department of Homeland Security's U.S. Customs and Border Protection, were invited to attend. The GSA design team presented an electronic building information model (BIM) showing the new port and incorporating a 4 dimensional (time visualization) demonstration of how traffic will flow through the new port.

Question. Does GSA perform an objective review of citizen concerns, and notify the community of GSA's decision in a timely manner?

Answer. GSA performs an objective review of citizen concerns for Federal construction projects. GSA immediately responds to oral questions received during open houses and stakeholder meetings, and addresses written comments submitted through the Agency's NEPA review. In the case of Madewaska, GSA thoroughly reviewed and responded to community concerns, questions and comments. Once substantive comments were addressed, GSA notified the community of how it evaluated and responded to comments in its final EIS.

The timeliness of the GSA's responses can be best demonstrated by example. For the Madawaska Land Port of Entry, the Draft EIS was made available to the public on August 8, 2006. The public comment period started on August 3, 2006 and ended on September 22, 2006. GSA also hosted an open house on August 17, 2006, where 14 attendees offered oral comments and GSA received ten written comments. GSA received a total of 75 pages of public concerns and comments regarding its Draft EIS, including verbal and written comments. GSA objectively reviewed these comments and then responded accordingly in the final EIS, which was published in December 2006.

Question. Approximately how many data centers does the Federal Government own? Approximately how many square feet of data center space does the federal government occupy in government owned facilities and contractor owned facilities?

Answer. The Office of Management and Budget is currently gathering Government-wide information on data centers. Once we receive the updated information, we will be in a better position to answer these questions. We expect to provide the Committee with the answers by October 15, 2009.

Question. What risk does the continued proliferation of federal data centers present to the federal budget and our nation's energy consumption?

Answer. The proliferation of Federal data centers will increase energy consumption in order to support the facilities' environment control systems and information technology systems. Additional data centers, as historically constructed, would increase overall costs to the Federal government for construction and operation and maintenance, and not take advantage of modern concepts such as cloud computing and virtualization that can reduce IT cost, energy consumption and lower the cost of government operations. Future data centers should be built with a well-coordinated strategy that increases capacity and utilizes modern concepts such as green building, and other efficiencies that would otherwise not be realized.

Question. Is GSA actively exploring how it can be a singular provider of data processing and storage capability to a large portion of the rest of the Federal Government?

Answer. Yes, GSA is currently preparing a business case analysis to determine the viability of providing multi-tenant government-owned data centers that offer a fully acceptable risk mitigated data survivability solution to all Federal entities.

To date, this analysis has focused on ensuring that Federal data centers provide adequate protection for our nation's most critical information and network infrastructures.

Question. What role can intra-data center and inter-data center virtualization play in facilitating federal data center consolidation?

Answer. These activities will reduce the footprint of information technology tremendously, through the provisioning of technology resources, and will assist in the reduction of Federal energy consumption. Data center virtualization will be one vehicle to realizing the cost savings and efficiencies proposed in this area by this Administration.

Question. What challenges exist to GSA and other agencies on the statutory and regulatory levels to achieving a more consolidated federal IT infrastructure?

Answer. We are currently gathering Government-wide information on data centers. Once we receive the updated information, we will be in a better position to answer these questions. We expect to provide the Committee with the answers by October 15, 2009.

Question. What are some examples of excellence within the federal government with regard to pushing the consolidation agenda forward?

Answer. We are currently gathering Government-wide information on data centers. Once we receive the updated information, we will be in a better position to answer these questions. We expect to provide the Committee with the answers by October 15, 2009.

Question Submitted to Joseph F. Bataillon

Question Submitted by Senator Susan Collins

Question. GSA will be spending $1.5 billion of American Recovery and Reinvestment Act (Stimulus) funds on facilities in which the Judiciary is a tenant. Do you believe the projects that have been identified reflect the Judiciary's highest priority needs?

Answer. The Judiciary's top space priority is the additional money needed to build the Los Angeles project. We were hopeful that stimulus funding was going to be provided to fund the estimated shortfall for the Los Angeles project that was authorized by the House and Senate. Thereafter, the Judiciary's space priorities are set forth in the attached Five-Year Courthouse Project Plan for Fiscal Years 2010–2014 (Five-Year Plan). Only one courthouse that was on the Five-Year Plan, Austin, Texas, was included in the stimulus legislation ($116 million). The Judiciary recognizes and is appreciative of the fact that of the $4.5 billion appropriated for green buildings, we will receive almost $1.3 billion of that money for repair and alteration projects in 132 buildings where the Judiciary is a tenant. In addition, two projects (Billings, Montana and Bakersfield, California) which the Judiciary and GSA had initially determined could best be provided through lease-construct are now funded as federal construction projects through the stimulus legislation. The Judiciary's highest priority space needs, however, are reflected in the Five-Year Plan.

FIVE-YEAR COURTHOUSE PROJECT PLAN FOR FISCAL YEARS 2010–2014 APPROVED BY THE JUDICIAL CONFERENCE OF THE UNITED STATES—MARCH 17, 2009

[Estimated dollars in millions]

		Cost	Score	Est. Net Annual Rent
FISCAL YEAR 2010				
Austin, TX	Add'l. S&D/C	$116.1	82.0	$6.5
Salt Lake City, UT	Add'l D/C	$211.0	67.9	$11.4
Savannah, GA	Add'l. D	$7.9	61.3	$3.5
San Antonio, TX	Add'l. D	$4.0	61.3	$9.2
Mobile, AL	Add'l. S&D/C	$190.3	59.8	$4.7

FIVE-YEAR COURTHOUSE PROJECT PLAN FOR FISCAL YEARS 2010–2014 APPROVED BY THE JUDICIAL CONFERENCE OF THE UNITED STATES—MARCH 17, 2009—Continued

[Estimated dollars in millions]

		Cost	Score	Est. Net Annual Rent
Total		$529.3		$35.4
FISCAL YEAR 2011				
Nashville, TN	Add'l. S&D/C	$183.9	67.3	$7.0
Savannah, GA	C	$95.5	61.3	$3.5
San Jose, CA	Add'l. S	$38.6	54.5	$9.4
Greenbelt, MD	S&D	$14.0	53.8	$1.6
Total		$332.0		$21.5
FISCAL YEAR 2012				
San Antonio, TX	C	$142.2	61.3	$9.2
Charlotte, NC	C	$126.4	58.5	$7.1
Greenville, SC	C	$79.1	58.1	$4.1
Harrisburg, PA	C	$57.3	56.8	$5.4
San Jose, CA	D	$17.2	54.5	$9.4
Total		$422.2		$35.2
FISCAL YEAR 2013				
Norfolk, VA	C	$104.7	57.4	$5.1
Anniston, AL	C	$20.4	57.1	$1.1
Toledo, OH	C	$109.3	54.4	$5.9
Greenbelt, MD	C	$170.0	53.8	$1.6
Total		$404.4		$13.8
FISCAL YEAR 2014				
San Jose, CA	C	$223.9	54.5	$9.4

S=Site; D=Design; C=Construction; Addl.=Additional.

All cost estimates subject to final verification with GSA.

CONCLUSION OF HEARINGS

Senator DURBIN. So that is about it for today, and the subcommittee is going to stand recessed.

Thank you very much.

[Whereupon, at 4:53 p.m., Tuesday, June 16, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]